

Meeting of 2001-11-27 Regular Meeting

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
NOVEMBER 27, 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

The meeting was called to order at 6:20 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
Michael Baxter, Ward Eight

ABSENT: Stanley Haywood, Ward Seven

AUDIENCE PARTICIPATION:

Doris Waddell, 2413 NW 22nd Street, distributed packets of protest petitions and photographs of the Fort Sill Garden Apartments, which are located across the street from her house. She said the apartment buildings are in bad shape; the grass is sometimes six feet high and the buildings are boarded up and the whole neighborhood looks run down because of those buildings. Waddell said she would like for the City to step in and help the residents do something about it since the owner does not. She said she had lived in her neighborhood for almost one year and it did not appear that things would be improving and she was not the only resident who felt that way. Waddell said she had been to neighborhood watches and the citizens are tired of crime and drugs in their neighborhoods; all the residents would like to see the buildings fixed up or taken down. She asked the Council to condemn the buildings and consider using CDBG funds to demolish them.

Waddell said she felt the buildings are a health hazard as they may contain dead birds, cats, snakes and so forth, although no one really knows what is in them. She said many neighborhoods need to be fixed up throughout the City and asked that they begin with Fort Sill Gardens. Waddell said a city park or pool would be nice in their community, or a youth center like H.C. King.

Shanklin said this came up during the CDBG budget and asked Jackson if a letter was sent to the owners telling them to bring the buildings up to code. Jackson said the intersection came up, as well as some discussion about the apartments, but he could not verify whether a letter was sent. Shanklin said we have an exterior code that we can enforce if we have the courage to do it, and he thought there was a majority here that would do so, but a letter would be sent to them giving them a certain length of time to bring it up to code, and we are talking about the exterior as far as the building itself, and the painting and roof line, but we do not have the money to tear it down.

Baker said he would have Neighborhood Services inspect the properties within the next couple of days and check for any and all code violations.

Purcell said last Tuesday night a lady complained her husband called 911 and was given a seven digit phone number to call an ambulance. He said on Wednesday he got with Mr. Wells and they made phone calls, and the person at this address used to live in the county, they had a phone number that was issued in the county and their phone number was directed to the Sheriff's Department for 911 service. Over a year ago they moved into the city, and you can take your phone number with you when you move, so when her husband called 911, it went to the Sheriff's Office, and the Sheriff's Office gave them the seven digit phone number of the City's E911 service, which

they called, and they did tell them the number to call if they wanted an ambulance so the husband thought he was calling an ambulance direct when he in fact was calling the City of Lawton E911 service. Purcell said information was distributed about it today and he had listened to the tape, as had the City Manager; the call came in at 6:06, the fire support first responders and the ambulance were dispatched at 6:07, the fire department arrived at the residence at 6:12 and the gentleman told him that the ambulance was right behind. He said the City's E911 folks did an outstanding job and did everything they were supposed to do.

Purcell said he found out others had problems in this 911 service and the Sheriff's Department gave four numbers that were in the City that when they dialed 911 would end up at the Sheriff's Department and the telephone companies are supposed to take care of that. He said one of them is Geronimo Lodge, when they call 911, it is routed for some unknown reason to the Sheriff's Department, and Mr. Wells is trying to take care of that. Purcell said based on that, he called the Corporation Commission because he felt there was a systemic problem; we have people moving from the City into the County, and the County into the City, and they are taking their telephone numbers with them, and it is up to the telephone company, and there are now dozens of local service telephone companies, that are responsible for re-routing the 911 service. He said we do not know if this is the tip of the iceberg or if there are dozens or hundreds out there. Purcell said they are looking into it, he got with Baker today and gave him the name, address and telephone number of the gentleman at the Corporation Commission, but it could be a really serious problem not only in Comanche County but throughout the rest of the state. He said it is not a problem where you only have one 911 service in a county, which is what the Corporation Commission thought we had in Comanche County and he told them there are two and that was what was causing the problem. Purcell said he wanted everyone to know that and that our folks did an outstanding job in this instance and they are to be congratulated.

CONSENT AGENDA :

Separate consideration was requested for Items 2, 5, 6, 7, 13 and 22.

MOVED by Shanklin, SECOND by Baxter, to approve the Consent Agenda items as recommended with the exception of Items 2, 5, 6, 7, 13 and 22. AYE: Hanna, Devine, Purcell, Shanklin, Moeller, Baxter, Bass. NAY: None. MOTION CARRIED.

1. Consider the following damage claim recommended for approval: Eve Dodson. Exhibits: Legal Opinions/Recommendations. Action: Approval of claim in the amount of \$30.00.

2. Consider approving a resolution authorizing the installation of traffic control devices on: 1) Cache Road from 67th to 82nd; 2) SW 18th at Roosevelt; 3) SW 18th at Garfield and 4) SW 19th at Garfield. Exhibits: Resolution No. 01-165; Excerpt of draft Traffic Commission Minutes of 11/15/01.

Moeller asked that the first location be considered separately.

MOVED by Moeller, SECOND by Purcell, to approve locations two, three and four, and Resolution No. -165.

Moeller said she agreed with the recommendation to lower the speed limit from 45 to 40 mph, however, she would like for the Traffic Commission to continue to watch this as it is an extremely dangerous intersection, several wrecks have happened there and she receives complaints from people in Hunter Hills who cannot get out onto Cache Road and with the people going to the restaurant, it is a very difficult intersection. She recommended this be approved and asked that it continue to be observed by the Traffic Commission to see if anything else can be done in the future.

MOVED by Moeller, SECOND by Baxter, that the speed limit be changed from 45 to 40 mph on Cache road from 67th to 82nd Street.

Baker said he would have the Traffic Engineer do a traffic study to determine whether it would be appropriate to have a traffic signal. Mayor Powell asked that the report be returned to the City Manager and that he and the Council receive copies. Moeller said she was seeking a long-term solution that would be the most appropriate.

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

(Title) Resolution No. 01-165

A resolution authorizing the installation and/or removal of traffic control devices at certain designated locations within the City of Lawton, Oklahoma.

3. Consider approving an Access Agreement which will allow non-exclusive access by automobiles and pickups to designated property between the Board of Education of Independent School District No. 8, Comanche County, Oklahoma, and the City of Lawton, Oklahoma, and authorize the Mayor and City Clerk to execute the document. Exhibits: Access Agreement. Action: Approval.

4. Consider approving a Cooperative Agreement for the preservation, enhancement and management of the McMahon Park Wetlands between the Board of Education of Independent School District No. 8, Comanche County, Oklahoma, and the City of Lawton, Oklahoma, and authorize the Mayor and City Clerk to execute the document. Exhibits: Cooperative Agreement. Action: Approval.

5. Consider authorizing the City Attorney to make a recommendation on behalf of the City of Lawton to the Oklahoma Legislature to amend certain state statutes so as to more easily facilitate the collection of municipal liens. Exhibits: Proposed Amendments. (see action after Item 7)

6. Consider authorizing the City Attorney to make a recommendation on behalf of the City of Lawton to the Oklahoma Legislature to amend a certain state statute so as to increase the authority of municipalities to regulate the subdivision of property located within each municipalities' respective corporate limits. Exhibits: Proposed Amendments. (see action after Item 7)

7. Consider authorizing the City Attorney to make a recommendation on behalf of the City of Lawton to the Oklahoma Legislature to amend 21 O.S. 1031 so as to: (1) make a second conviction for prostitution within ten years a felony conviction; and (2) provide for a penalty range for a felony conviction. Exhibits: Proposed Amendment.

Shanklin asked that Items 5, 6 and 7 be explained. Vincent said Item 5 is to request that the Legislature amend certain State Statutes to more easily facilitate the collection of municipal liens. Vincent said the last numbers he saw were in the range of \$147,000 that is due the City from municipal liens for abatements of nuisances and demolition of buildings; there is a problem collecting the fees once they are put on the tax rolls as to priorities, there are conflicts between Title 11 and various other titles as to the priority of the liens. Vincent said Mr. Wilson wrote the recommendations that would clean up these conflicts so we would become a priority lien holder over and above mortgages.

Vincent said Item 6 has to do with the filing of deeds and other land records such as lot splits and land divisions within the City limits; there is a similar law for property in the County, however, there was no requirement for recording of deeds on lots in the City if they were a certain size tract of land and this clears up that requirement and makes it mandatory.

Vincent said on Item 7 they were contacted by a citizen to help with the prostitution problem, primarily in Lawton but throughout the entire state, and the gentleman also spoke with the Mayor and said he had spoken with the Governor and with Ron Kirby. He said the citizen proposed that the second offense conviction of prostitution become a felony and they were asked to look at writing a statute to that effect and presenting it to Mr. Kirby, and matters such as this are brought to Council for approval and this is the idea brought forward by the citizen.

MOVED by Shanklin, SECOND by Devine, to approve Items 5, 6 and 7. AYE: Shanklin, Moeller, Baxter, Bass, Hanna, Devine, Purcell. NAY: None. MOTION CARRIED.

8. Consider adopting a resolution approving a Joint Settlement Petition in the Workers' Compensation case of Danny W. Goynes in the Workers' Compensation Court, Case No. 2001-3137J. Exhibits: Resolution No. 01-166.

(Title) Resolution No. 01-166

A resolution approving a joint settlement petition in the Workers' Compensation case of Danny W. Goynes by joint settlement petition for the amount of Twenty-Four Thousand Dollars and 00/100s (\$24,000.00).

9. Consider ratifying the action of the Lawton Water Authority authorizing not to re-lease the tract of land known as Tract E-24 on the northeastern side of Lake Ellsworth which is north of the proposed prairie dog relocation area. Exhibits: None. Action: Ratify LWA approval.

10. Consider endorsing an amendment to Federal Fiscal Year 2001-2003 Transportation Improvement Program of the Lawton Metropolitan Area to include a fifteen passenger van for Robert E. Greiner School for the Handicap. Exhibits: None. Action: Approval.

11. Consider endorsing an amendment to Federal Fiscal Year 2001-2003 Transportation Improvement Program of the Lawton Metropolitan Area to include two twenty-foot micro buses with wheelchair lifts, one fifteen passenger van and one seven passenger minivan for the Comanche County Nutrition Project. Exhibits: None. Action: Approval.

12. Consider endorsing an amendment to the Transportation Improvement Program Federal Fiscal year 2001-2003 to include the purchase of a fuel tank, fuel pump and additional passenger amenities for public transportation. Exhibits: None. Action: Approval.

13. Consider approving Change Order No. 5, accepting the McMahon Memorial Auditorium Lobby Renovation

Project #2000-34 as constructed by Reynosa Construction, Inc. and placing the maintenance bond into effect. Exhibits: Letter.

Purcell said several days were added to the contract for each of the change orders; change order one added 14 days; change order two added five days; change order three did not add any days; change order four added seven days, and now we have a deduct for someone who did not do what they were supposed to do, but there was obviously some time involved in getting this done, now it is being deducted and someone else will independently be doing that work. He asked why we were not saying the company had to give back some days; we always give them extra days for change orders but they did not do what they were supposed to and why are we not deducting some days for the tile work.

Mike Johnson, City Engineer, said maybe that is something we should have considered but, frankly, they were glad to be able to terminate the contract and move on with it.

Purcell said we are saying they completed it two days under contract time but they did not because now we have to get someone else to do the terrazzo work, and we need to take a good look at this type of thing. He said we are really generous on days on change orders and sometimes they still go over, but this is a good example because they did not finish the job and we have to get someone else.

Johnson said he doubted if these work items would have been on the critical path and probably would not affect the overall timeframe.

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

14. Consider accepting the Lake Lawtonka Gate Operators Electrical Project #2001-11 as constructed by Electro-Craft, Inc. and placing the maintenance bond into effect. Exhibits: None. Action: Approval.

15. Consider approving Change Order No. 1 for the Ranch Oak Park Improvement Project #2000-14 with Kent Waller Construction Co. Exhibits: None. Action: Approval. (Change order is for drinking fountain, ADA ramp and ADA parking sign for \$1,598.61 and no additional work days)

16. Consider acknowledging receipt of permits from the Oklahoma State Department of Environmental Quality for the construction of sanitary sewer and water lines with appurtenances to serve the Cameron Baptist Church. Exhibits: None. Action: Approval.

17. Consider approving federal and state applications for universal service to make the Library eligible for discounted telecommunication rates and authorize the Mayor to sign any necessary forms. Exhibits: None. Action: Approval.

18. Consider approving the following contract extensions: A) Scott Wireless Talk Around Mask Radio with Wayest Safety, Inc.; B) Upholster Damaged Seats with L & L Machine Shop; C) Saw Blades with RSC/Prime. Exhibits: None. Action: Approval.

19. Consider awarding contract for UHF Portable Radios. Exhibits: Recommendation; Abstract. Action: Award to Lawton Communications.

20. Consider awarding contract for VHF Portable Radios. Exhibits: Recommendation; Abstract. Action: Award to First Communications, Inc.

21. Consider awarding contract for Radios (Mobile Radio Equipment Only). Exhibits: Recommendation; Abstract. Action: Award to Lawton Communications.

22. Consider awarding contract for Rental Equipment. Exhibits: Recommendation; Abstract.

Devine asked how long this loader would be leased. Johnson said it is a scraper and it is an annual contract, although the equipment will not be leased at this time; it was put out for bid because the Sewer Rehab Division wanted this item to use in working on the wet weather facility at the Wastewater Treatment Plant, and in the event they cannot continue to use the scraper from the Landfill, then they wanted to be able to rent one. Johnson said it will only be leased if it is needed in the future. Devine asked if there could be a lease-purchase and how many days it would be leased for or if it would only be periodically. Johnson said it will only be leased if we cannot use the scraper at the Landfill, and he did not know how many days that might be but it will be at least one month as a minimum period.

Baker asked if this is the only project Sewer Rehab will be doing that will require a scraper. Johnson said yes, and when that is finished, they would not need it. Devine said he did not want to lease something for a year at \$6,600

per month when that would have gone a long way toward purchase.

MOVED by Devine, SECOND by Bass, to award to C.L. Boyd, Inc. AYE: Baxter, Bass, Devine, Purcell, Shanklin, Moeller. NAY: None. OUT: Hanna. MOTION CARRIED.

23. Consider awarding contract for Liquid Sulfur Dioxide. Exhibits: Recommendation; Abstract. Action: Award to DPC Industries.

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

Library Board (terms to expire 5/31/03): Lynn McIntosh, Carol Sinnreich, James H. Burpo (Capt. Ret.)
Human Rights & Relations Commission (terms to expire 9/30/03): SFC Noel Arroyo Carreras, Ft. Sill Rep.; Marta Olivencia, Hispanic Rep.; Bill Mathis, City of Lawton Rep.
Lawton Housing Authority: Felix Cruz, term to expire 10/27/04
Museum of the Great Plains Trust Authority: Frank Dunbar, Institute Rep., term to expire 6/30/02

25. Consider approval of payroll for the period of November 12 through 25, 2001. Exhibits: None.

26. Consider approval of Minutes of Lawton City Council Meetings of November 9 and 13, 2001.

BUSINESS ITEMS:

27. Consider an ordinance amending Section 21-207, Chapter 21, Lawton City Code, 1995, as amended, establishing maintenance bond requirements for low strength concrete and declaring an emergency. Exhibits: Ordinance No. 01-33; CPC Minutes.

Bob Bigham, City Planner, said this ordinance will create some flexibility in the City Code dealing with low strength concrete; recently it was brought up during review of two subdivisions that there was no flexibility when there was concrete that substantially met the minimum requirement of 3500 psi. The City Engineer's specifications are made a part of the subdivision approval process. On October 23 the City Council reviewed this issue and directed staff to prepare an ordinance and present it to the Planning Commission; a special Planning Commission meeting was held on November 15 to consider this issue. Staff took a two-tier approach in resolving this issue to provide flexibility in the code; one was to change the ordinance and modification to the City Engineer's specifications. Bigham said Mr. Nance and Mr. Jones, who are present tonight, were at the CPC public hearing and spoke in favor of the proposed ordinance; Mr. Walker made suggestions to include an irrevocable letter of credit in lieu of a maintenance bond and that has been incorporated into the ordinance.

Bigham said the proposed ordinance would allow acceptance of paving that is within 85% of the City specifications providing there is an additional maintenance bond in the amount equal to 100% of the construction cost for a five-year period. The maintenance bond would be in addition to the standard maintenance bond of 15% for a two-year period for the whole subdivision. This five-year bond would only be for the sections that did not achieve the 3500 psi standard, and in addition to the ordinance, the City Engineer's office has prepared amendment to the specifications and if Council adopts this ordinance, those standards will go into effect. The engineer's standards set out a procedure for when you have the cylinder test fail the 3500 psi, it provides an additional procedure for a core test to be made and it also goes into if it is less than 85% of the standard, then the concrete will have to be replaced.

Shanklin said he just learned how the sampling was done and there is a batch taken at the time of the pour and it is taken to Standard Testing and after 28 days they apply pressure to it to determine whether it gets into the 85% or 100% or more range. He said he concern was how you would know what sections and it may show up for 8, 9 or 10 yards. Bigham said each load of concrete that is poured is tested by those cylinders. Mayor Powell said he did not think that was true, and asked if each load is tested. Shanklin asked how staff would identify which exact parts were or were not to specification. Mike Johnson, City Engineer, said for example on the subdivisions that are due for consideration, on one of them there was between 600 and 900 feet of street and we took three different sets of tests, so they might average, depending on how much they are pouring, they will take samples at least once a day, for example, or in this case, they made that over several days and they took three sets of tests, so it can vary. Shanklin said Johnson was still dancing around, how would he know to tear out the middle section of a street, for example. Johnson said depending on where the tests were taken, if those tests are less than 85% of the standard, then we will know and it may be for a full block, and they would have to re-test and if those tests show it is 85% then they will be good.

Shanklin said what if we test them two or three months later and it is 3500 or 3700 psi, what do we do then, ignore it. Johnson said if they want to wait for some period of time before they submit additional tests, we would certainly consider that.

Shanklin said on item one, why would the concrete contractor be responsible for water or sewer lines. Johnson said

they are not. Bigham said the developer or his contractors are required to submit maintenance bonds on all the improvements; generally there will be multiple maintenance bonds, one will be from the water and sewer contractor, one from the streets, and there can be several maintenance bonds for all subdivision improvements. Bigham said the concrete contractor generally would not be responsible for the water and sewer maintenance bonds unless he did the work. Shanklin asked if he had to put up a bond for it anyway. Bigham said the contractor who does the improvement puts up the maintenance bond for that improvement. Shanklin said the ordinance says the subdivider shall be required to provide the maintenance bond for all of the items. Bigham said we usually get bonds from each of the multiple contractors.

Shanklin asked if we accept 85% on the water treatment plant at Medicine Park and if that was in the specifications. Johnson said the plans were prepared by a consultant and he would be glad to try to get that answer. Shanklin said if we are going to accept it in one area, we have to accept it in others he would think. Vincent said it is a driving street versus a building, and they are both concrete but have different functions. Shanklin said if concrete hardens up to 7000 psi over a period of time, he could not understand having to put up 100% of the entire cost of the material and labor for the pavement. Vincent said it is actually lower than what was recommended by Mr. Walker's group, they wanted 150% and we wrote it down to 100%. Shanklin asked if they were willing to put up to 150%. Vincent said that was the paper they submitted for staff's consideration in drafting the ordinance. Shanklin asked Walker if that was correct. Walker's response from the audience was that it would have been in a tier situation where it was below 90%. Vincent said the recommendation is to have just one tier. Mayor Powell said this is a much better ordinance than have now.

Devine said on approving anything that is 85%, he understood from the expert who spoke previously that sometimes the testing may be below 85% but you can send it to a certain laboratory and test it, such as they did with the core samples they had that were inferior or did not meet the qualifications, they sent them off and it was tested to be above standard. He asked Walker if that was correct. Walker said that was the statement at the meeting. Devine said just because it has to be within 85%, maybe that is not always the issue and he thought we were going to include some guidelines so the developers would have a little bit of room to move on it because the concrete in these two additions has been tested and has come back stronger. Walker agreed. Devine said he knew were trying to hold these people's feet to the fire, but sometimes there is another solution if we just look.

Vincent said we have the situation with these two subdivisions, and one issue was to be able to get the record plat approved and recorded in a timely fashion so that the developers can sell their property. He said as was stated by the expert, concrete cures out over a period of time, but time is of the essence for the developers so they were trying to come up with a standard they can apply early on to get them approved so they can get on with developing their property and not wait several months for an additional curing period.

Devine said he understood that and that you must have something where common sense applies; you cannot always be black and white. Vincent said that was why they put in the 85%. Devine said this did not test 85%, and they sent them to another laboratory and the air in the concrete made it more durable than it would have been if it had been 85%. Walker agreed. Devine said sometimes we pass ordinances and do not let any common sense apply and we have got to let somebody be able to use that; we cannot just say it has to be 85% and it may be that much tomorrow but not today, yet you are going to tell them to start busting it out, and that was what he was saying about having something to apply common sense.

Vincent said the other part of this that may not have been adequately explained is that they are allowing core testing, so if the cylinder test does not come back under the new standards being developed by the Engineering Department, they can go out and do core tests.

Devine said he was not disputing that but still felt they needed room for common sense to apply. Mayor Powell said it is a lot better than it was before. Devine said he did not see the flexibility. Shanklin agreed. Mayor Powell said it was 100% of 3500 psi but now we have two different percentages to work with.

Bigham said the direction from Council at the earlier discussion was not to change the 3500 psi standard; through this two tier approach we have changed the City Engineer's specifications where they say that the concrete is acceptable above 85% providing an additional maintenance bond is submitted, so flexibility is provided within these two parts. He said this is the first time this has happened and that is the reason we did not have any flexibility within the code or standards because in 20 plus years to his knowledge, this has never happened before, we have always got the test back at 3500 psi or better, so we are now providing a lot of flexibility within the code and hopefully this will never happen again.

Purcell said when Council sent this back he was the one who said we need a two tier system; when it went to the Planning Commission and everyone discussed it, and there are builders on the Planning Commission as well as those who came in, they came up with the 85% and the flexibility. He said they did not see a need, and those are the people who deal in it every day, of having the two tier system. Purcell said they have got the flexibility to go to 85% and he would not support if all of the sudden it is 84%, you get to run to Council and we change the ordinance again to drop it to 80%; no, we need to do it now, figure out what the standard is going to be before there are any

violations and say that is what it is. He said he specifically asked that question after the Planning Commission, what happens if it is 84%, and it was his understanding that if it was 84%, it is torn out. He asked John Jones if that was correct and Jones said yes. Purcell said he thought that was where we should leave it, although he originally thought we needed 85% and then another tier but they decided that was not necessary.

Shanklin said he did not think a developer would want to tear out a 84% pour after 28 days, and they would likely take a core sample to court showing it exceeds that due to the time. Vincent said that is the developer's choice; if he wants to go to litigation to force the City into accepting his record plat so he can start selling his property and during that period of time his concrete comes in harder because of age, we will accept it; but if he wants to start selling his lots now, he has to meet our standards, that is his choice.

Moeller said the 85% figure came up because someone asked what ODOT did and that is what they did, they allowed a little bit of wiggle room of 15%, so that was why we considered it. She said she wanted to keep the 3500 but allow that wiggle room because it will not come in on the same number each time. Moeller said she wanted to make sure that if a core sample requires it be stronger that we can require that due to the subsoil.

Shanklin said the only problem he had with it was how would you ever be able to annex anybody; how can you bring anybody in that does not meet this standard; would you vote to bring someone in who is in the County whose roads could not meet this. Bigham said that would be a Council decision. Moeller said this is for new roads.

Mayor Powell said this bounced back between himself and Baker two or three different times and the developers were told to tear out the concrete and that was it, and he asked how did it go this far, where is that loophole at, and that is how we got to where we are tonight. He said you have a lot better vehicle to work with tonight than you had 45 days ago.

MOVED by Purcell, SECOND by Hanna, to approve Ordinance No. 01-33, waive reading of the ordinance, read the title only, and declare an emergency.

(Title read aloud) Ordinance No. 01-33

An ordinance relating to subdivisions, amending Section 21-2-207, Chapter 21, Lawton City Code, 1995, as amended by Ordinance Nos. 96-30 and 98-24, establishing maintenance bond requirements for low strength concrete and declaring an emergency.

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

Devine said he was voting yes only so he could bring it back if needed.

28. Consider approving the record plat for Brentwood Addition, Part 2C, and accepting the improvements, escrow in lieu of completed minor improvements, maintenance bonds, easements, and warranty deed for park land. Exhibits: Plat Map.

MOVED by Shanklin, SECOND by Baxter, to approve the record plat as recommended.

Bigham said the Planning Commission on November 15 approved this conditionally; all of the conditions and documents have been submitted. Staff recommends approval of the plat subject to the ordinance that was just passed where they did not meet the standards for the concrete, and as soon as they get that in and it is approved by the City on the correct form, then we will sign the plat and get it recorded.

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

29. Consider approving a resolution declaring the unforeseen presence of mycotoxin mold at Patterson Center an emergency situation wherein the public health and/or safety is endangered; direct City staff to take steps to eradicate the mold; and further waive the provision of the competitive bid requirements under Section 10-113, Lawton City Code, 1995. Exhibits: Resolution No. 01-167; 61 OK. St. An. 130; Section 10-113, Lawton City Code, 1995.

Vincent said mycotoxin mold was found at Patterson Center as a result of roof leaks; roof repairs were to begin this morning. He said this meets the definition of emergency as defined in the statutes and code, and the resolution would allow staff to move forward with necessary repairs to the rest of the building.

Shanklin asked how this process works. Baker said at least two local firms do this kind of work, and if Council declares this an emergency, staff can get quotes and the work can start immediately. Shanklin asked if this gives staff the right, regardless of the price. Baker said competitive bids would not be required. Shanklin asked if it had to be brought back to Council and Baker said no. Shanklin asked the funding source. Baker said he would have to identify some funding to switch around, and may have to come back to Council to request contingency funding, but we will find the money to get the work done. Shanklin asked the estimated cost and Baker said he did not know.

Baxter asked what if it was \$1 million. Shanklin said we have to look at that before having a contractor do the work. Baker said the extent of the problem is not as great as originally thought, and the price will be reasonable. Mayor Powell said we do have local people that can do the work. Baker said he did not think it would cost that much.

MOVED by Shanklin, SECOND by Purcell, to approve Resolution No. 01-167.

Baxter said the last time this was discussed someone was to see if the building was on the historic register; he asked if that answer had been found. Vincent said the initial report indicates the work can be done inside without disturbing the exterior of the building so they did not follow through on that question. Baxter said he did not like giving staff an open wallet and would not vote for it.

Moeller said this roof leak did not happen overnight and she was concerned about how long it had been leaking, why it was not addressed before, and prevention is much cheaper than a cure always. She said the buildings are owned by the people of the City, paid for with City money from those people, and it is an investment, and if you do not keep your investment in good shape, you lose it as it deteriorates. Moeller said we are not doing the public a service by allowing their buildings to deteriorate, and this is can put employees and the public in danger. She said there are many City buildings, there will be leaks in the future and it will cost more money, so we should look at it carefully.

Mayor Powell said he could be blamed for a lot of that because in the last CIP election, we should have been good thinkers and included a certain amount for maintenance of our buildings. He said that category needs to be included in the next CIP instead of having the City Manager borrow from one account and pay back to another, and he would accept that fault as the leader because it was not on the CIP but it would be on there in the future.

Baker said he reviewed a draft administrative policy that Mr. Shaman prepared requiring annual inspection of all City roofs, and it will be done in a timely manner so funds can be included in the budget request each year. He said some inspections would be done by Building & Grounds and some would be done by the owner/operator of the facility, but that will be a requirement. Moeller said the longer it is delayed, the more costly it will be. Mayor Powell said he brought up the idea of having our own roof department just to do this due to the number of buildings the City has, and then we could inspect it and fix it ourselves before it ruins hundreds of thousands of dollars in property.

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

(Title) Resolution No. 01-167

A resolution declaring the presence of mycotoxin mold at Patterson Center an emergency situation wherein the public health and/or safety is endangered; directing city staff to take steps to eradicate the mold; and further waiving the provision of the competitive bid requirements under Section 10-113, Lawton City Code, 1995.

30. Consider setting a date of January 8, 2002, to hold a public hearing and consider an ordinance closing the park in Morford Hills Addition, Part 2. Exhibits: Application; Map; Policy 5-1.

MOVED by Shanklin, SECOND by Purcell, to approve setting the date for January 8, 2002. AYE: Devine, Purcell, Shanklin, Moeller, Baxter, Bass, Hanna. NAY: None. MOTION CARRIED.

31. Consider denying requests for the installation of traffic control devices on: 1) SW Summit near 61st; 2) Dearborn just west of 38th; 3) NE Euclid at 4839 NE Winfield Circle; 4) NW 36th and Arlington; and 5) 400 block of SW 80th. Exhibits: Excerpt of draft Traffic Commission Minutes of 11/15/01.

Devine said #2 already has a 25 mph speed limit sign. He spoke in favor of approving the request for three-way stop signs on #4 at NW 36th and Arlington due to traffic going very fast in this area and due to construction at Memorial Hospital causing traffic to use 36th Street to get back onto Gore. He said it makes more than a 90 degree turn to go back to the south and you can see the skid marks where people come around the corner too fast and slide up into people's yards. Devine said the police officer's report showed it was excess speed but also that we are not to use stop signs to slow down traffic, but he did not know how else to do it. He said Jackson had mentioned a study in Dallas about using speed bumps in residential areas to slow down traffic, and that may be a long time away or never done in Lawton, but he would like support for the stop signs at least temporarily due to construction at Memorial Hospital.

Mayor Powell asked which item Devine was referring to and Devine said #4 only. Bass said there are deaf children in the neighborhood at NW 36th and Arlington, there are deaf children signs already up, and adding the stop signs would further help protect those children.

Purcell spoke in favor of approving #3 to install No Parking signs on NE Euclid due to a large field being used for soccer and football practice causing many people to park in this area all day on Saturdays and most afternoons. He

said the resident cannot mow and edge his yard for the cars, the resident asked people to not park there and it did not help; there is a fire hydrant at the corner and cars park two feet from it, which is a violation. Shanklin asked if it was just for this one person. Purcell said yes, it is one house; there are places to park behind that house in an empty lot, but once cars are parked in front of the house, the resident cannot work on his yard. Shanklin said he did not want to make the soccer people mad. Devine said item 2 had already been taken care of.

MOVED by Devine, SECOND by Purcell, to approve 1, 3 and 4, and disapprove 5. AYE: Purcell, Shanklin, Moeller, Baxter, Bass, Hanna, Devine. NAY: None. MOTION CARRIED. (*Note: These approvals will be added to Resolution No. 01-165 above. Items approved are: Install 25 mph speed limit sign on SW Summit near 61st; install No Parking signs on NE Euclid at 4839 NE Winfield Circle; and install three (3) Stop signs at the intersection of NW 36th and Arlington.)

32. Consider awarding a construction contract to T & G Construction, Inc. and approving Change Order No. 1 and authorizing additional funding from the unappropriated 1995 CIP for the Eastside Community Park Project #2000-19. Exhibits: Bid Tabulation.

Baxter said he thought the Council appropriated all of the 1995 CIP funding and asked if there is more that is unappropriated. Baker said additional funding accrued as interest; at the time Council made the appropriation, that was the balance, but additional interest was accrued. Mayor Powell asked if the amount Baxter was speaking of had been expended, and these are only funds from interest. Baker said it has not all been actually spent but the projects are funded, and this is not part of that money, this is additional interest.

Moeller said there are three items on the agenda tonight that are asking for \$437,000 but according to this there is only \$365,000 left. Baker said \$200,000 was left over from the Squaw Creek Project, and at the time the 1995 CIP was reprioritized, that project had not been completed.

Mike Johnson, City Engineer, said the Eastside Park Project was bid with a base bid, which included the four ballfields, concession stand, restrooms, sidewalks and other infrastructure for the basic facility. The bid also included six different alternatives; lighting, bleachers and various other items to allow flexibility in awarding depending on available funds, and the Parks & Recreation Director feels lighting is necessary to be able to fully utilize the park; Alternate One is the lighting. T & G Construction was the low bidder with a base bid amount of \$1,453,000 and Alternate One was \$341,000 for a total of \$1,794,000.

Johnson said in an effort to save money they looked at the electrical portion and talked with PSO, and they are able to realign the electrical service to the site causing a savings of \$40,000. The cost of the site power is still \$44,000, and they are proposing that the street and security lights be furnished through the street light program. In conjunction with this, change order one will delete certain electrical items from the contract. He recommended a balance of \$325,000 be transferred from the 1995 CIP unappropriated funds, which has a balance of approximately \$365,000, and award the contract to T & G for the base bid plus alternate one with the change order one deduct reflecting the revised scope of work.

Shanklin said he had been interested in the dirt work portion; the engineer's estimate was \$520,000 on Items 19 and 20, and T & G bid \$263,000, which is almost half of that. He asked who is the engineer and what are his credentials that he cannot get any closer than that. Johnson said C.H. Guernsey was the design engineer. Shanklin said he missed it there but the bottom line was close.

Shanklin asked if bleachers would be built. Johnson said no. Shanklin said he thought they were needed and asked if the price was \$44,000; he said if there is money left between the \$325,000 and \$365,000, the bleachers should be added. He asked the Mayor and Bass if they agreed. Bass said he needed money to tear down those apartment buildings in Ward One that were brought up earlier, and funds are usually found to tear down buildings in Shanklin's ward. Shanklin said you are not going to get those torn down, they will be remodeled.

Purcell said the CIP Chairman and Parks & Recreation Commission Chairman are present to speak. He said the park is not for east side residents only but for the entire city, and these four ballfields replace those that were lost due to construction of the new Central Junior High. Shanklin said he remembered that well, the vote was five to four to enter into agreements between the City and the School Board and Purcell did not vote for it, but then Purcell got the Eastside Park and took the lakes out of it but did not want the City and the School Board to go together and it is in the minutes. Purcell said possibly Shanklin misread what he voted for.

Moeller asked if she misunderstood that alternate one was for lighting and bleachers. Purcell said it is just for the lighting.

Baxter said he knew the lights were needed but it seemed we were leaving money on the table by letting people make a higher bid than their competitors, under the alternate one schedule it seemed we were wasting from \$19,000 to \$60,000. He asked why we could not have T & G do the ballfield, and the guy with the next lowest bid on the lighting do that portion, instead of giving away \$19,000. Shanklin said it is an all or none. Baxter said you could put out a whole new deal just to do the lighting.

Johnson said the lighting could be bid separately and not awarded at this time. He said we would have another contractor on site to deal with. Baxter asked if we could deal with somebody for \$19,000. Johnson said yes. Mayor Powell said contractors work with and around each other all the time on the same project. Vincent said the specifications were for base bids plus alternates and we either had to award the base bid and none of the alternates or some combination of the alternates to the same bidder, and we could not award alternates to other bidders; you could award the base bid to the low bidder and we would have to rebid the lighting. Baxter asked if the second company would honor what they bid. Vincent said we cannot do that under the Oklahoma Competitive Bidding Act.

PUBLIC HEARING OPENED

Neil Springborn, 5431 NW Cottonwood, Parks & Recreation Commission Chairman, requested the lighting be included for the ballfields. He said these fields are intended for use by everyone in Lawton and without lighting, the use of the fields will be severely limited to the detriment of the youth baseball program. Springborn said there was a problem when lighting was not provided for the Eisenhower School complex, which was badly underused because of the absence of lighting. He said the youth say there is nothing to do in Lawton and this is arguably true, perhaps even more so during the evening hours; by establishing lighting at the fields, we will be establishing another place where the youth will have something to do. Springborn said the Parks & Recreation Commission voted unanimously at the last meeting to support this request for lighting and asked that the request be granted.

Mike Jones, 7824 NW Morocco, Vice Chairman of the Citizens Advisory Committee on CIP, said he would speak in favor of the recommendation to add lighting. He said at the last CIP Committee meeting this item was brought before the members and although they did not take a vote, there was quite a bit of concern among the members that if this project were built without lighting that it would be a waste of citizens' money for underutilization of an asset that will cost \$1.4 million and it could be used only about 30% of the time. Jones expressed support for including lighting.

PUBLIC HEARING CLOSED.

MOVED by Purcell, SECOND by Moeller, to award a construction contract for the total amount of \$1,748,249.90 to T & G Construction and approve Change Order No. 1, authorize funding in the amount of \$325,000 from the unappropriated 1995 CIP for the Eastside Community Park Project #2000-19.

Moeller asked what the cost was for bleachers. Kim Shahan, Parks & Recreation, said \$27,400.

SUBSTITUTE MOTION by Shanklin, SECOND by Devine, to add to John Purcell's motion that we put in the bleachers.

Mayor Powell said the substitute motion is exactly the same as Mr. Purcell's, adding the bleachers in the amount of \$27,400. Smith asked if the funding for the bleachers would also be from the 1995 CIP. Shanklin said yes, it would come out of the difference between the \$325,000 and \$365,000. Purcell said the new number is \$352,400 as opposed to \$325,000.

Johnson said alternate three contains the bleachers and covers for a total of \$58,000. Vincent said a delete change order can be done for a portion of the bleachers as was done with the security lighting.

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

33. Consider approving a Cooperative Agreement for the development and use of East Side Park between the Board of Education of Independent School District No. 8, Comanche County, Oklahoma, and the City of Lawton, Oklahoma, and authorize the Mayor and City Clerk to execute the document. Exhibits: Cooperative Agreement.

Vincent said this is a companion item and allows for joint use of facilities at McArthur Senior High School in conjunction with the Eastside Park. It has been approved by the School Board.

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

34. Consider adopting an ordinance authorizing the sale by sealed bid of approximately 2.8 acres, more or less, of City-owned real property which has been declared nonessential and surplus in the vicinity of NW 67th Street and Quanah Parker Trailway and the value of the property exceeds Fifty Thousand Dollars (\$50,000), said land being legally described hereinafter; providing all potential bidders may make an environmental inspection of said property after receiving permission from the Real Property Administrator; providing City staff to set a minimum bid for this sale; providing an effective date and making provisions for a vote thereon if a valid referendum petition as

required by the Lawton City Charter is filed; providing for publication of the full text of this ordinance; and authorizing the Mayor and City Clerk to execute all documents necessary for conveyance of said property after sold by sealed bid. Exhibits: Ordinance No. 01-34.

MOVED by Shanklin, SECOND by Hanna, to approve Ordinance No. 01-34, waive reading of the ordinance, read the title only.

(Title read in agenda item title by Mayor) Ordinance No. 01-34

A special, non-emergency ordinance authorizing the sale by sealed bid of approximately 2.8 acres, more or less, of City-owned real property which has been declared nonessential and surplus in the vicinity of NW 67th Street and Quannah Parker Trailway and the value of the property exceeds Fifty Thousand Dollars (\$50,000), said land being legally described hereinafter; providing all potential bidders may make an environmental inspection of said property after receiving permission from the Real Property Administrator; providing city staff to set a minimum bid for this sale; providing an effective date and making provisions for a vote thereon if a valid referendum petition as required by the Lawton City Charter is filed; providing for publication of the full text of this ordinance; and authorizing the Mayor and City Clerk to execute all documents necessary for conveyance of said property after sold by sealed bid.

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

35. Consider awarding bid for the Owens Multi-Purpose Center Re-Roofing Project #2001-25, and authorize additional funding. Exhibits: Bid Tabulation.

Johnson said this roof was damaged by high winds; the existing structure is a flat roof which has leaked in the past. Project plans were prepared by staff for a roof with a minimum slope of inch per foot. The project is for construction of 19,000 square feet of re-roofing with a contract time of 45 days. Available funds of \$80,000 are from insurance proceeds. There were three bids but two are non-responsive due to various errors so the one valid bid was from Brox Roofing at \$177,000. The contract can be awarded and additional funding authorized or reject the bids and readvertise. Johnson said the project needs to be done as expediently as possible to avoid more damage to the building.

Baxter asked why insurance covered only half of the replacement cost. Johnson said the insurance was just for the value of the roof covering that was damaged, and if we want to replace the roof with a correct slope, it is a higher cost.

Shanklin said this happened in May but now it is expedient in December, and asked the funding source. Mayor Powell said the engineer's estimate was \$137,000 and the low bid was \$177,000, or \$40,000 difference. Mayor Powell said if you simply do repairs from the insurance money, there would not be a warranty. Johnson agreed and said if you have a flat roof and it has standing water on it, it will void your warranty. Mayor Powell said the new roof is certainly the way to go, but it should bother everyone that the bid exceeded the engineer's estimate by \$40,000, and Shanklin also had a point that this happened in May and that was quite a while back.

Baxter asked why the firm that really had the low bid was not responsive. Johnson said there were errors in his bid and he did not bid all of the items.

MOVED by Purcell, SECOND by Devine, to award the bid to Brox Industries and authorize the additional funding from the 1995 CIP.

Shanklin said there is no more money in the 1995 CIP because we just spent it. Mayor Powell said the other funds were from the Squaw Creek Project so funds are available.

Baxter said he watched the news and understood them to say that we are in a recession, but you sure could not tell it by looking at this Council.

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

36. Consider directing staff to prepare and submit a Hazard Mitigation Grant Program (HMGP) Application to the Department of Civil Emergency Management for the installation of rainfall and stream gauges within the urban limits of Lawton and authorize the Mayor and City Clerk to execute said application. Exhibits: Summary; Letter.

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

(Note: There was no agenda item #37)

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Shanklin commended those employees who are required to work out in the cold weather.

Baxter said we are not in a recession in Lawton, so that's good.

Devine said there was a subject in the newspaper and we need to forewarn the people, voters, to get ready, we are going to have a water rate or utility rate increase, and he could promise they were paving the road for it now. He said he will not support raising utilities for the residents of the City of Lawton and he said that is exactly what staff is getting ready to do, or Council is getting ready to do, or someone, but he would not support it all. Devine said we need to start making people aware of where our problems are, evidently we do not have any because we are spending a ton of money tonight, but with the water report and the way he read it in the paper, it is going to have an increase of about 13% if he understood it correctly. Shanklin said he understood Lawton residential customers were paying 13% too much, according to the report.

Moeller asked if we were short on employees on the garbage trucks; there were two loading before but now there seems to be only one in addition to the driver. She said also, from what she heard tonight, we still have about \$100,000 left in the 1995 CIP and we need to sit on that real tight, and anything else that comes back into that account, because we will likely have some more maintenance problems. Moeller said the Boulevard of Lights in the snow is beautiful.

Baker said as far as the sanitation crews, it is normal procedure during the winter months to reduce the number of personnel; we normally hire contractual employees during the summer to fill out the crews but the workload of that division decreases about 40% during the winter months so it is not unusual to see a truck with two people during the winter, and those employees understand that. Mayor Powell said they still get in about the same time in the afternoon because of that decrease, or that was his understanding from talking with some of them.

Bass said he had been gone to Japan since November 1 and it is good to be back and he apologized for not being able to speak with people during his absence. He said the Council will be going to Atlanta to a NLC Conference, December 5-9, and that he would be home after that.

Purcell the street crews have already been out sanding and he appreciated their work.

Hanna offered prayers for Stanley Haywood who is in the hospital, and said he hoped everyone would have a safe trip home tonight in the snow and to drive carefully.

Baker thanked everyone for remembering him during his recent illness and the doctor says he now has the heart of a 30 year old but the problem is the rest of his body is still way over 50, but he was doing fine.

Mayor Powell re-emphasized the comments about Haywood and said Shanklin will also be having a procedure, so send your prayers his way. He said the Lee Boulevard median lighting should be back in operation in January. Mayor Powell said a Project Impact workshop and signing ceremony are scheduled for Tuesday, December 4. He said he was out of state Sunday and Monday and hopefully just around the corner, there will be some kind of extremely good news and it was a great trip.

BUSINESS ITEM:

38. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending lawsuit of James Warren Phillips v. City of Lawton, Case No. CIV-01-1044T United States District Court, Western District Court of Oklahoma, and if necessary, take appropriate action in open session. Exhibits: None.

Vincent said executive session was not needed unless Council needed an explanation on this case; on December 7 in Oklahoma City, there will be a neutral evaluation that will need a City representative to attend with Hedy Jackson if possible. Several Council members will be gone to the NLC Conference. Vincent said and it is not a requirement and no action is required. Executive session was not convened.

There being no further business to consider, the meeting adjourned at 7:50 p.m. upon motion, second and roll call vote.