

Avenue to 11th Street to go to work everyday so she had been taking pictures every day.

Herrera said her claim was turned in on the 29th at Noon and the dumpster was finally moved out of the street on about October 1 or 2, as shown in picture 16, but until then the dumpster was always at the curb or sticking out into 13th Street. She said by October 26th the dumpster was moved all the way over to the curb by the church as shown in pictures 17 and 18. Herrera said she had statements in the packet from three people saying they had seen the dumpster on many occasions sticking out in the roadway. She said she did not hit the dumpster, but hit the little bar that sticks out from the side. Herrera said there is a light at the corner that lights up the dumpster if you are looking at it from B Avenue but if you are going down 13th from A Avenue toward the dumpster, the light does not illuminate the dumpster. She said she hit the dumpster because it was not well lit from the direction she was coming from and the dumpster has always sat where it stuck out in the roadway as shown in all the pictures and that was the reason she thought the City should pay for damages to her truck; the damages are shown in pictures 5, 6, 7 and 8 in the packet.

Purcell said when he first read it he thought the dumpster rolled and hit Ms. Herrera's vehicle. Herrera said no, the dumpster did not move, it was always sitting sticking out in the road. Purcell asked if the dumpster was stationary and Herrera hit it because she did not see it. Herrera said yes, she was judging her distance in the street by the line in the middle of the street and was moving over a little bit because she was getting ready to make the turn onto B because she lives the next block down. Purcell asked what would have happened if a car would have been there or some other object, would she have missed that. Herrera said yes, but that little bar that sticks out is hard to see at night time.

Baxter asked why the church did not have their own dumpster rather than having a City dumpster. Wilson said it is a City dumpster. Devine said businesses can receive service from the City or from Kan Haul and either will provide dumpsters.

Hanna said Herrera made a comment that she knew the dumpster was there all the time. Herrera said yes. Hanna said if she knew it was there all the time, then why did she hit it and did she just forget. Herrera said no but it was obviously sticking out a little more that night than usual, and you can see the front fender was not hit at all.

Bass asked why the dumpster was out in the road to begin with, did the wind blow it out there. Herrera said no, it is always set there by whoever empties it because ever since she hit it and every day that she drives by there, it is always about in that same place. Mayor Powell asked if the City services this dumpster and Wilson said yes, every Tuesday and Friday.

Shanklin asked what model pickup it is. Herrera said it is a 1999 Dodge Ram. Shanklin asked if Herrera's insurance had paid for it so far. Herrera said no, her deductible is \$500 and she felt like the City was responsible for it because the dumpster sticks so far out in the road. Herrera said if the Council feels the City is not liable then she would turn it over to her insurance but she has not so far.

Wilson distributed photographs taken by the City on October 8 showing the dumpster not to be out in the street. He said reasons for recommending denial are that on the morning of June 10 at 5 a.m. Ms. Herrera did not call the police to do a police report so there is no independent confirmation that this actually happened; there was never a report made to the Solid Waste Collection Division of the damage to the dumpster or her vehicle until the tort claim was filed. He said he spoke with the trustee, secretary and maintenance man at the First Presbyterian Church, as well as a maintenance man at the apartment complex across the street and showed them Herrera's photos, as well as the photos taken by the City on October 8 and asked which looked more realistic as to where the dumpster was most of the time, and all of them told him, especially the church maintenance man, that the dumpster, as far as he could remember, was always where the City photos showed it to be and it was never out in the street. Wilson said he was not saying it did not happen to be out in the street on the morning of June 10, which was a Sunday morning so the last time the City would have emptied it would have been the Friday before that. Wilson said Ms. Herrera must show that the City is responsible for putting that dumpster in the street, and based on her comments and her tort claim, he did not feel she had adequately met her burden of proving that the dumpster was placed out in the street the way she alleged by the City; it could have been moved by somebody else, some third party that we just do not know about. Wilson said the little handle sticks out only about six inches so Herrera would have had to be too close to it anyway for that to happen, so there was contributory negligence on her part that would limit or negate the City's responsibility. He said he did not feel Herrera had met the burden of proving the City was the one that caused the dumpster to be in the street on this particular day and that was why he recommended denial.

Bass said with all of these pictures of this dumpster being out in the road, is the thought that Ms. Herrera pushed the dumpster into the road every time and took pictures of it. Wilson said he was not saying that at all because he did not know; he talked with the church maintenance man who said he is out there when the City empties the dumpster and it is put back; somebody else could have moved it, he did not know what happened but it is not the City's burden to prove the case.

MOVED by Devine, SECOND by Bass, to approve paying the \$500 deductible and authorize the Mayor and City Clerk to

sign the appropriate resolution. AYE: Baxter, Bass, Devine, Shanklin, Moeller. NAY: Hanna, Purcell. MOTION CARRIED.

(Title only) Resolution No. 01-168

A resolution authorizing and directing the City Attorney to assist Mary Herrera 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 Five Hundred Dollars and no/100s (\$500.00).

2. Consider the following damage claim recommended for approval and consider passage of any resolution authorizing the City Attorney to file a friendly suit for claims which are over \$400.00: Cara M. Danforth and Nestor and Carolyn Enriquez. Exhibits: Legal Opinion/Recommendation; Resolution No. 01-169 and 01-170.

(Title only) Resolution No. 01-169

A resolution authorizing and directing the City Attorney to assist Cara M. Danforth 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 Two Thousand Ninety-Four Dollars and 43/100s (\$2,094.43).

(Title only) Resolution No. 01-170

A resolution authorizing and directing the City Attorney to assist Nestor and Carolyn Enriquez 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 Two Thousand Three Hundred Seventy-Six Dollars and 45/100s (\$2,376.45).

3. Consider accepting an easement from The Goodyear Tire & Rubber Company for the installation of a 12" waterline in the Northwest Quarter of Section 6, Township One North, Range Twelve West, that will serve Cotton County Rural Water District #2. Exhibits: None. ITEM WAS STRICKEN AS SHOWN ABOVE.

4. Consider accepting an easement from Joanne Gasser and Dorothy Gasser for the installation of a 12" waterline in the Northeast Quarter of Section 1, Township One North, Range Thirteen West, that will serve Cotton County Rural Water District #2. Exhibits: None. ITEM WAS STRICKEN AS SHOWN ABOVE.

5. Consider authorizing the payment of \$8,066 to FIFTY-FOUR HUNDRED LANA, L.L.C., an Oklahoma Limited Liability Company, in exchange for an easement for a 24" waterline located in Lot 2, Block 2, Boyles Landing Section 2. Exhibits: Letter.

Vincent said the name of the payee should be changed to Cooper Medical Buildings, Inc. and recommended approval of the item in that manner.

MOVED by Devine, SECOND by Baxter, to approve Item 5 as recommended by the City Attorney. AYE: Bass, Hanna, Devine, Purcell, Moeller, Baxter. NAY: None. OUT: Shanklin. MOTION CARRIED.

6. Consider authorizing the Mayor to send a letter to the Comanche County Commissioners requesting that they "close" a portion of the statutory right of way in the vicinity of Fire Station #5. Exhibits: None. Action: Approval.

7. Consider approving a resolution authorizing and calling for an election in the City of Lawton, State of Oklahoma, for the purpose of setting the dates for the 2002 primary and general municipal elections of the designated City Council seats; and calling for said election. Exhibits: Resolution No. 01-171.

Purcell said there is an error in Section 5 of the resolution showing filing closes February 14, 2002, at 5 a.m. and it should say 5 p.m. Vincent said the error would be corrected.

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

(Title only) Resolution No. 01-171

A resolution of the Council of the City of Lawton, Oklahoma, setting the dates and calling for the municipal election to be held during the year 2002 as provided in the City Charter; specifying the officer to be elected; providing for qualifications of candidates; designating which elective offices shall be filled by voting by ward; providing for nonpartisan election; providing for residency requirements; providing that Precinct 42 not be opened; directing that a copy of this resolution be forwarded to the Secretary of the Comanche County Election Board as required by state law.

8. Consider approving an agreement with the Lawton Outreach Center, Inc. for funds designated for use by the Police Department for equipment purchases and overtime hours for use in designated Weed & Seed areas; and authorize the Mayor and City Clerk to execute the agreement. Exhibits: None. Action: Approval.

9. Consider approving revisions to Council Policy 2-3, Processing Damage Claims submitted against the City of

Lawton. Exhibits: Proposed Council Policy 2-3. Action: Approval.

10. Consider adopting a resolution requesting that the Oklahoma Department of Transportation take appropriate measures to prohibit and discourage making right turns at the intersection of Lee Boulevard (State HY-7) and SE 45th Street from both the east and west bound road shoulders. Exhibits: Resolution No. 01-172.

Purcell said he received letters from citizens about a problem with turning lanes at the corner of 45th and Lee Boulevard; drivers are making right turns from the roadway shoulders but others are staying in the proper lane and making those same right turns. He said the request was to make right turn lanes out of the shoulders; the City sent a letter to ODOT and he talked to Bob Rose who asked for this resolution and the language in the resolution is "take measures to prohibit and discourage making right turns" and ODOT is planning to install buttons so drivers cannot make right turns. Purcell said the entire intersection needs to be redone and all of the utilities moved but that is absolutely cost prohibitive. He said the shoulders cannot be used for right turns because they will not support the weight of vehicles and there is not enough room for trucks, so this is an attempt to improve the situation.

MOVED by Purcell, SECOND by Hanna, to adopt the resolution and get it to Bob Rose as soon as possible. AYE: Devine, Purcell, Shanklin, Moeller, Baxter, Bass, Hanna. NAY: None. MOTION CARRIED.

(Title only) Resolution No. 01-172

A resolution requesting the Oklahoma Department of Transportation to take appropriate measures to prohibit and discourage making right turns at the intersection of Lee Boulevard (State HY-7) and SE 45th Street from both the east and west bound road shoulders.

11. Consider the proposal from the Museum of the Great Plains and the McMahan Foundation to place a sculpture on the property between the Museum of the Great Plains and the McMahan Auditorium as a non-profit trust. Exhibits: Map; Letter. Action: Approval.

12. Consider acknowledging completion of the Oklahoma Department of Transportation (ODOT) project for the reconstruction of NW 82nd Street (Lee to US 62, Rogers Lane V) as constructed by Bruton Construction Co., Inc. Exhibits: None. Action: Approval.

13. Consider a lease agreement between City of Lawton and Voice Stream PCS I, LCC for Antenna Space. Exhibits: None. Action: Approval.

14. Consider accepting the left turn bay located west of SW 52nd Street on Lee Boulevard and a maintenance bond. Exhibits: Map. Action: Approval.

15. Consider setting a date of January 22, 2002, to hold a public hearing and consider an ordinance closing an easement along the south side of Erwin Acres Shopping Center. Exhibits: Application; Site Plan; Map; Council Policy 5.1. Action: Approval.

16. Consider approving the following contract extensions: A) Wrecker Service with Alford's Truck and Wrecker; B) Aluminum Sulfate-Ground with General Chemical Corporation; C) Bunker Clothes with Total Fire Group; D) Welding Gases with Airgas Mid South; E) Dewatering Polymer with Polydyne, Inc. Exhibits: None. Action: Approval.

17. Consider awarding contract for Police Footwear. Exhibits: Recommendation; Abstract. Action: Award to Ausley's Law Enforcement Acc.

18. Consider awarding contract for Flush Truck Hose & Accessories. Exhibits: Recommendation; Abstract. Action: Award to ICM of Oklahoma City.

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

Redistricting Commission: Richard Zarle, Ward 6, Term: 12/11/01 to 7/1/06

Project Impact Steering Committee: Mike Austin, Rep: Lawton Chamber of Commerce and Industry; Term: 12/11/01 to 10/9/03

20. Consider approval of payroll for the period of November 26 through December 9, 2001.

21. Consider approval of Minutes of Lawton City Council Meeting of November 20 and 27, 2001.

UNFINISHED BUSINESS:

22. Consider the following damage claim recommended for denial: Holy Cross Lutheran Church. Exhibits: Claims Memorandum/Recommendation; Supplemental Claims Memorandum/Recommendation.

Vincent said the claim was tabled on October 23 at the request of Councilman Bass for further investigation, which was done by Mr. Wilson who has personally been on the site and visited with the pastor, who is present.

Wilson said the claim involves a grass fire on July 24, 2001, near the church; a fire unit positioned itself inside the church parking lot to provide protection in case the fire threatened the church. The fire did not pose a serious structural threat according to the firefighter who was driving the engine and at one point he turned around to go to another location and when he left the church, he drove over part of the parking lot that had been patched on May 24, 2001 and the fire engine's weight rutted part of the parking lot. The church filed a claim in the amount of \$2,500 for the cost to repair the damaged parking lot. Wilson recommended denial of the claim due to the exemption from liability in the Oklahoma Tort Claims Act which provides that municipalities are not responsible for injury that results from the method of providing fire protection; he said a judge would likely dismiss this based on that exemption.

Wilson said negligence is the failure to exercise ordinary care to avoid injury to another person's property, and ordinary care is what a reasonable, careful person would do under the same or similar circumstances. He said the parking lot was resurfaced two months before this incident, cones were taken down a week after the resurfacing, and the firefighter pulled up assuming the parking lot was fine, monitored the fire, left, there were no cones present at that time, and from what the firefighter told Wilson, no one advised him to stay off of that particular part of the asphalt. He said a reasonable person assumes a parking lot will be able to accommodate their vehicle or that it will be fit for vehicular use. Wilson said even though we caused the ruts he did not believe there was a situation where there was negligence and that was the reason he was recommending denial. He offered to provide photographs.

Arvie Fields, Chairman of Trustees of Holy Cross Lutheran Church, said the parking lot was 30-35 years old and had several areas of broken pieces of asphalt so a contractor was hired to saw out the broken areas and remove that asphalt, then resurface it. The parking lot was not redesigned, they just put in crushed limestone and brought the base back up to where it was, they did not dig out anything, but the asphalt that came out left potholes and it was redone. Fields said the area the fire truck damaged is the furthest area from the church and probably has less base than the area of the driveway and the parking lot near the church; this parking lot had served them well for 30-35 years and they did that work approximately two months prior to this incident. He said the weight of a fire truck is likely much more than that of a car; the fire truck went to the back of the lot where the ruts are. Fields said as far as they knew, no hoses were laid, it was just an observation of the fire which was coming from south to north toward the parking lot. He said in summary he would say to do what is right but not to the limit of the law; it served them well for 30 years and should serve for more than two months.

Rev. Don Howard, Pastor of Holy Cross Lutheran Church, said he was at the scene of the fire and his major concern was to make sure the fire did not threaten any structures, their building included. He said he did not see the ruts in the parking lot until after the fire truck left. Rev. Howard said he felt everyone agreed the fire truck did make the ruts in the parking lot and that is not even a question. He said he told members of the congregation that they would talk with the City and he was sure some assistance would be given in putting that right, so he was quite disappointed when he found the claim had been denied.

Rev. Howard said the fire truck did not dispense any water at all, and while the fire truck was there, there was a fire inside their fence that was working its way toward the church building so he went to the fire truck and told the fellow but he made no effort to do anything about it; a Fort Sill soldier jumped over the fence and put the fire out with a shovel. He said the fireman did nothing, but that is not exactly true, he did put ruts in the parking lot and as a result, they are left with an expense. Rev. Howard said he hoped the Council would do what was right for the citizens of the City, as well as for the citizens of the Holy Cross Lutheran Church.

Baxter asked if the parking lot repair was done by a local contractor. Mr. Fields said the contractor was from Duncan.

Bass said this is a huge parking lot and the fire truck turned to get out but could have driven around the repaired spot and missed it since it was only resurfaced in certain areas which were obvious. He said he felt the fire truck was responsible for the incident.

Shanklin said he did not know if the apparatus driver really understood what the pastor was trying to tell him; they were there to fight fire and we have good firefighters and he did not see them shirking their duty at all. He said if we did the damage, we need to pay for it. Shanklin said they likely would not have backed the fire truck up due to its size and we send them out to protect our citizens and if they destroy something, we have to pay.

Purcell said the driver would not know that he should not drive over it and the rest of the parking lot did not get the ruts. He asked if the church had approached the contractor about their work failing only in that one place. Fields said when you make a sharp turn on a fresh base, you put more force on it and he thought the driver had been told to reposition the truck.

MOVED by Bass, SECOND by Devine, to pay the claim and authorize the Mayor and City Clerk to execute the resolution. AYE: Purcell, Shanklin, Moeller, Baxter, Bass, Hanna, Devine. NAY: None. MOTION CARRIED.

(Title only) Resolution No. 01-173

A resolution authorizing and directing the City Attorney to assist Holy Cross Lutheran Church 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 Two Thousand Five Hundred Dollars and no/100s (\$2,500.00).

BUSINESS ITEMS:

23. Discuss status of 1225 S Sheridan Road to determine if Council will allow the issuance of a remodel permit. Exhibits: Reports.

Dan Tucker, Building Development Director, said a request was received from the property owner, Mr. Patel, to rebuild the structure which Council previously condemned; it is the old Sheridan Inn Motel that was damaged in a wind storm. He said he and Ms. Alltizer were directed to work with Patel to see if a solution could be found. Tucker said Patel received the settlement from the insurance company and applied for a permit to remodel showing an estimated cost of \$260,000. The property is taxed at \$392,000; the fair market value prior to the damage according to the Assessor's Office was \$469,874, therefore the remodel cost exceeds 50% cost of the value specified in the code as being an unreasonable cost to repair. Patel had submitted a list stating he wanted to fix the roof, replace sheet rock and electric, but because it is a motel, State law requires the owner hire an architect to develop a rebuild plan that would include all safety features, alarms, handicapped accessibility and so forth.

Shanklin said the agenda item shows that staff is recommending issuance of the remodel permit. He asked if the owner understands what will be required of him and said Mr. Cruz signed a letter and asked if that was his expertise. Tucker said Mr. Cruz wrote the letter outlining the areas that Building Development and Neighborhood Services had seen damaged. Shanklin said he was trying to find out if this gentleman knew what he was looking at. Tucker said he did not know that, and the times he spoke with the owner, he would tell him to call the insurance adjuster and he did so and the adjuster said they had paid the claim. Shanklin asked if the recommendation was to allow a 90-day building permit with review every 30 days. Tucker said he did not know that an architect could design it within 90 days. Shanklin said the owner needs to know the work may cost him \$300,000 to \$400,000. Tucker agreed.

Devine said he thought the permit should be issued and offered to speak with the owner and explain it because he owns another motel in town. Tucker said he would not be able to issue a permit until the owner presents architectural drawings. Devine asked if the item should be tabled or what staff recommended. Tucker recommended that we inform Mr. Patel that he has to have an architect, let him evaluate the situation and advise whether he wishes to proceed with the permit. Mayor Powell asked if the item was just to have the discussion that took place. Tucker said yes, because he did not know that Mr. Patel can get this done in 90 days and that an agenda item can be returned at the first meeting in January after Mr. Patel decides which direction he would like to go.

24. Consider adopting a resolution recognizing the Street Division for outstanding work in clearing roadways during the recent snow storm. Exhibits: Resolution No. 01-174.

Purcell said Council members likely got calls about the Street Division's good work and he was impressed that they got the streets cleared without blocking driveways with snow. He said they received a certificate tonight but felt they should be recognized formally by the Council.

Purcell read the resolution as follows: A resolution of the City of Lawton City Council recognizing the outstanding work of the Street Division in clearing roadways during the recent snow storm. Whereas, the City of Lawton experienced heavy snowfall during the last week of November 2001, and whereas the Street Division performed in an outstanding manner in clearing the roadways and making them as safe as possible for the traveling public, and whereas the employees of the Street Division worked long hours in very cold and dangerous weather to make the roadways as clear as possible for the citizens of the Lawton-Fort Sill community, and whereas it is appropriate to formally recognize the efforts of the employees of this division with a resolution to be entered into the City's official records, Now therefore be it resolved that the City of Lawton City Council hereby recognizes and commends the Street Division for performing in an outstanding manner to make the roadways of the community more safe for travel during the November snow storm.

MOVED by Purcell, SECOND by Moeller, to approve Resolution No. 01-174. AYE: Shanklin, Moeller, Baxter, Hanna, Devine, Purcell. NAY: None. OUT: Bass. MOTION CARRIED.

(Title only) Resolution No. 01-174

A resolution of the Lawton City Council recognizing the outstanding work of the Street Division in clearing roadways during the recent snow storm.

25. Consider approving Change Order No. 1 for the Medicine Park Water Treatment Plant Expansion Project with Van Horn Construction, Inc. Exhibits: Summary. (Amount of change order is deduction of \$1,760,063)

MOVED by Hanna, SECOND by Baxter, to approve Item 25. AYE: Moeller, Baxter, Hanna, Devine, Purcell, Shanklin. NAY: None. OUT: Bass. MOTION CARRIED.

26. Consider awarding a construction contract to Chickasha Roofing Co., Inc. for the McMahon Auditorium Re-Roofing Project #2001-9 and authorizing additional funding for this project. Exhibits: Bid Tab.

Jerry Ihler, Public Works Director, said four bids were received with the low bid being from Chickasha Roofing in the amount of \$83,900. References of the company were checked by staff and by McMahon Foundation and were positive; he recommended award to Chickasha Roofing in the amount of \$83,900.

MOVED by Shanklin, to award to Chickasha Roofing in the amount of \$83,900.

Purcell said this bid is \$22,000 below the architect's estimate, and way below all the other bids. He asked if we are satisfied that the company can do it for this amount of money. Ihler said we realize it is a low bid and there could be some concern but that was the bid that was received and from the references that were checked, they are a company that does what they say they will do. Purcell said we have it for 90 calendar days and assumed there was provision for bad weather days and for normal liquidated damages. Ihler said correct, if they do not meet the time frame, they will be charged liquidated damages.

Shanklin asked if the company told anyone they had left something out of the bid. Ihler said no. Shanklin said the company is apparently satisfied with their bid and has put up a bond.

Purcell said he had heard some comments, had done some checking on his own and was satisfied with what he found, without getting into the names and the problems, and as long as they are satisfied, he did not want to bring up any more comment.

Moeller said the total cost is shown as \$92,000. Ihler said it includes a 5% contingency and \$4,000 for decking; part of the bid was to replace damaged or rotten decking that was encountered; Chickasha's bid includes a unit price of \$3.25 per square foot of decking that they have to replace so we do have that contingency and funds are requested for that purpose. Ihler said if the City's inspector agrees the decking needs to be replaced, the contractor will be required to do that at the cost shown in the bid, and that is the reason for the additional funds.

Shanklin said the City has had projects recently where local firms did not bid because they are so busy and far behind, and when you have a lot of work, the prices come in higher than at other times.

MOVED by Devine, SECOND by Hanna, to award the bid to Chickasha Roofing. AYE: Baxter, Bass, Hanna, Devine, Purcell, Shanklin, Moeller. NAY: None. MOTION CARRIED.

27. Consider accepting a grant from the McMahon Foundation for installation of water fountains at McMahon Auditorium and authorize the Mayor to request a grant for painting of McMahon Auditorium. Exhibits: Letter.

MOVED by Shanklin, SECOND by Baxter, to approve Item 27. AYE: Baxter, Bass, Hanna, Devine, Purcell, Shanklin, Moeller. NAY: None. MOTION CARRIED.

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

Hanna asked if proposals had been requested from insurance companies. Jeff Welch, Acting Human Resources Director, said informal quotes were received from Blue Cross/Blue Shield and from Unicare; formal RFP's are to be returned January 8. Shanklin said he thought we were going to contact some companies who were previously denied the ability to make a proposal. Mayor Powell said anyone can submit a proposal and asked how it was advertised. Welch said RFP's were mailed to Towe, Hester and Erwin, to the current health plan third-party administrator who is also an insurance agent, and to a company called Consec; it is advertised in the local newspaper and anyone can submit a proposal.

Baxter said he did not understand sending an RFP to one local insurance agency instead of all of them or why this was being discussed if there will not be a response until January 8. Welch said at this moment there is \$1,800 in the health fund, and that is after the City put \$220,000 in it yesterday. Baxter said he told them eight months ago that it was going bankrupt and no one listened to him.

Purcell asked for a summary of the proposed changes and how it will cost the employees more. Welch said the current family coverage costs \$92.06 per pay period for 24 pay periods per year; the proposal is to deduct that amount from the two pay periods where deductions are not currently made, for a total of 26 pay periods. Purcell asked if that was an extra \$184 per year for family coverage. Welch said yes, it comes out to 8.33% increase; the City's contribution will also go up 8.33%, as well as the retirees.

Welch said the current prescription plan is an \$8 co-pay for generic drugs by the employee, and \$20 for name brand drugs; a three-month supply of maintenance drugs can be obtained for 1.5 times the cost of one month's supply. The proposed revision is for a \$10 co-pay for generic drugs or 15%, \$20 or 25% for brand name drugs, and if a brand name is selected when generic is available, it will be \$30 or 35%.

Shanklin asked the City Manager to simplify it and tell them what the employees want. Baker said this is the third time this has come before Council and it is at a critical stage, the plan is all but broke and we are self-funded and must have funds to pay claims. Baker said \$220,000 was advanced through an accounting exercise; the City budgets \$2.5 million for group health insurance and pays \$200,000 per month, but funds had to be advanced to pay claims this month, so for all practical purposes, we are broke. Baker said we must either decrease the benefits or raise the premiums or a combination of both. This has gone to the Employee Health Committee two or three times, and the EAC has also been involved. Baker said the recommendation was made by those groups and it is a combination of reducing benefits and increasing premiums. He said something must be done to get money into this fund, regardless of what happens in January when bids are opened; if we can buy private insurance for less than being self-funded, that will be the answer, but action is needed. Baker said he did not like cutting benefits or increasing premiums and it affected his family also, but since it is self-funded, something must be done. He said information was sent to each employee to give them an opportunity to provide input, and that was a Council concern last time that employees did not know what was going on and did not have an opportunity to provide feedback. Baker said we took great care to make sure employees had that opportunity this time, and this is the best we can come up with at this point.

Shanklin said Council received a letter from Mr. Whitehead suggesting it be taken out weekly instead of twice a year and asked if that made sense to the employees. Purcell explained it was for the two additional pay periods and Whitehead preferred it be done during each payroll.

MOVED by Shanklin, SECOND by Purcell, to accept the recommendation by staff.

Purcell asked if the EAC also approved this. Welch said the meeting of the Health Plan Review Committee was attended by almost 100% of the EAC members and they were given an opportunity to provide input at that meeting. Bass asked Mr. Thomas to speak.

John Thomas, EAC Chairman, said the Health Committee and EAC discussed it, and last time the majority of employees were not notified of the proposal and he personally was dissatisfied with the previous proposal. He said the majority of employees he had spoken with were agreeable to this proposal, however, no one is satisfied to pay more money but the health plan needs money. Thomas said this is a good plan for now but every two or three months something else has to be done, but in the long run, it should save money to be self-funded. He said you will not satisfy everyone but the majority of the general employees, as well as fire and police, are satisfied with this proposal. Denise Flusche, EAC member representing professional employees, indicated her agreement with this proposal.

Moeller said it appears this waited until we were in very dire straits before something was done. She said problems should be addressed as soon as they are found, and not wait a year. She suggested a quarterly report be done to show how this is working. Baker said this may not be the permanent fix for the rest of the year; we will have to look at the claims experience and see what impact these changes have on the plan, but it may have to come back.

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

29. Consider approving a resolution authorizing a revision in the City of Lawton Medical Reimbursement plan to increase the maximum reimbursement in any plan year from \$3,000 to \$5,000. Exhibits: Resolution No. 01-175.

Welch said last year 26 employees requested the maximum of \$3,000 be set aside to pay medical expenses, and this is non-tax money for them. There is no cap required by IRS and he talked with an attorney from a firm the City has under contract and he said only the resolution was needed to make this change.

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

(Title only) Resolution No. 01-175

A resolution authorizing a revision in the City of Lawton Medical Reimbursement Plan to increase the maximum reimbursement in any plan year.

30. Consider adopting an ordinance pertaining to the Parks and Recreation Commission, amending Section 2-367, Lawton City Code, 1995, by changing the appointment procedure for the members of the Commission. Exhibits: Letter; Ordinance No. 01-35; Proposed Schedule; Memorandum.

Kim Shahan, Acting Parks & Recreation Director, said the objective is to establish a different reappointment structure for the Commission to help in meeting quorum requirements.

MOVED by Shanklin, SECOND by Baxter, to adopt Ordinance No. 01-35, waive reading of the ordinance, read the title only.

(Title read in agenda item title) Ordinance No. 01-35

An ordinance pertaining to the Parks and Recreation Commission amending Section 2-367, Lawton City Code, 1995, by changing the appointment procedures for the members of the Commission.

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

Parks & Recreation Commission membership expirations will be recorded as follows:

Barrett, Jackie, Ward 1, January 2003

McLinden, James, Ward 2, January 2002

Watts, Ronald C., Ward 3, January 2003

Bell, Thomas A, Ward 4, January 2002

Strickland, Rick, Ward 5, January 2003

Strawn, Mike, Ward 6, January 2004

Allen, Delbert R., Ward 7, January 2003

Springborn, Neil, Ward 8, January 2002

Thorne, Jerry, Mayor, January 2003

Watkins, Gary, Mayor, January 2003

One vacant slot for Mayor's appointee to expire January 2002

ADDENDUM:

1. Consider adopting a resolution in support of Fort Sill's effort to locate the Basic Officers Leadership Course at Fort Sill. Exhibits: None.

Mayor Powell said he attended a meeting Saturday and learned of this, and apologized for the resolution not being provided to Council due to the short time line. He said this might mean more troops at Fort Sill through a basic officers leadership course, and it was his understanding that the decision maker will be General Abrams at TRADOC, and time is of the essence. Mayor Powell asked the resolution be approved, as well as a letter.

MOVED by Shanklin, SECOND by Hanna, to approve the resolution.

LTC Puckett said the army is restructuring the education system for lieutenants, and if this is not located here, Fort Sill will loose about half of the lieutenants that are here, which would be a smaller loss but if this is approved, it would be a larger gain. Puckett said it will be a transient population of 5,000 to 6,000 lieutenants who would be here for about two months at a time, but the City's willingness and ability to support the population is a big factor in Fort Sill; it does not hurt to have this if we were considered for closure.

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

(Title) Resolution No. 01-176

A resolution naming Lawton-Fort Sill as the perfect site for the Basic Officers Leadership Course; endorsing the recommendation and selection of Lawton-Fort Sill as the site for this important U.S. Army Training Mission.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Shanklin said the drainage crews are making progress and hopefully the DOC crews can resume work after the first of the year, although we may have to take another route to get it done.

Baxter said there was a recent change in the turn lane situation at the intersection at 52nd and Cache Road, and most people have not observed the change and several wrecks have occurred. He requested an officer observe that corner for a week to maybe write warning notices to get people to understand that they cannot turn right from the left hand lane, and it is confusing but a bus was almost involved in a wreck there today so the general public needs to be informed of the change. Devine agreed and suggested the lanes and arrows be freshly painted in a way the

drivers could see clearly.

Hanna said they had a very enjoyable trip to Atlanta and learned a lot.

Devine said he had given everyone a hand out that was not from the convention; we are always talking about water and this company sent these packets; the company is doing work at Fort Sill right now and the packet contains very good information.

Mayor Powell said he felt a workshop was needed on a couple of items, one being what your goals are for this City and the budget is just around the corner. He suggested a one-hour meeting be held on Monday, December 17 at 8:30 a.m. to consider the goals and the other item is that a representative of McMahon Foundation came to him and they are willing to put the road in Elmer Thomas Park as shown in the recent plan but there are a few things that need to be talked about first. Purcell asked if the meeting could begin at 8 a.m. and that was agreeable.

Devine said he will not support any kind of utility rate increase.

BUSINESS ITEMS:

31. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending lawsuit titled City of Lawton v. International Union of Police Associations (IUPA), Local 24 & Diane Jones; in the District Court of Comanche County, Case No. CJ-2001-1080 and take necessary action, if necessary, in open session. Exhibits: None.

32. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the possible settlement of a pending lawsuit of Lee Carter and Teresa Carter vs. David M. Dixon and City of Lawton, Case No. CJ-2000-1042, and in open session, appoint a City Council representative to attend the Settlement Conference scheduled for January 3, 2002. Exhibits: None.

33. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the possible settlement of a pending lawsuit of Mike Cornish, Case No. CJ-1993-253 and CS-97-138 District Court of Comanche County, and if necessary, take appropriate action in open session. Exhibits: None.

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

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

Vincent reported on Item 31 that executive session was held pursuant to Section 307B4, Title 25, Oklahoma Statutes, to discuss the pending lawsuit titled City of Lawton v. International Union of Police Associations (IUPA), Local 24 & Diane Jones. He recommended a motion to authorize the City Attorney to appeal the District Court's denial of the City's application for temporary injunction and request a stay of the arbitration pending a ruling on appeal.

MOVED by Hanna, SECOND by Baxter, to authorize the City Attorney to appeal the District Court's denial of the City's application for temporary injunction and request a stay of the arbitration pending a ruling on appeal. AYE: Baxter, Bass, Hanna, Devine, Purcell, Shanklin, Moeller. NAY: None. MOTION CARRIED.

Vincent reported on Item 32 that executive session was held pursuant to Section 307B4, Title 25, Oklahoma Statutes, to discuss the possible settlement of a pending lawsuit of Lee Carter and Teresa Carter vs. David M. Dixon and City of Lawton, Case No. CJ-2000-1042. He requested a motion appointing Councilmembers Shanklin and Bass to attend the settlement conference with the settlement authority as discussed.

MOVED by Hanna, SECOND by Baxter, to appoint Councilmembers Shanklin and Bass to attend the settlement conference with the settlement authority as discussed. AYE: Baxter, Bass, Hanna, Devine, Purcell, Shanklin, Moeller. NAY: None. MOTION CARRIED.

Vincent reported on Item 33 that executive session was held pursuant to Section 307B4, Title 25, Oklahoma Statutes, to discuss the pending lawsuit of Mike Cornish, Case No. CJ-1993-253 and CS-97-138. He requested a motion authorizing the City Attorney to attempt to settle the claim in the amount discussed and if the settlement is unsuccessful we go to trial.

MOVED by Devine, SECOND by Bass, to authorize the City Attorney to attempt to settle the claim in the amount discussed and if the settlement is unsuccessful we go to trial. AYE: Bass, Hanna, Devine, Purcell, Shanklin, Moeller, Baxter. NAY: None. MOTION CARRIED.

Vincent said that would conclude his report. Mayor Powell asked if there was anything else discussed in executive session and Vincent said no, there was not.

There being no further business to consider, the meeting adjourned at 8:55 p.m. upon motion, second and roll call vote.