

Meeting of 2001-7-24 Regular Meeting

MINUTES  
LAWTON CITY COUNCIL REGULAR MEETING  
JULY 24, 2001 - 6:00 P.M.  
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

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

The meeting was called to order at 6:30 p.m. by Mayor Powell. Notice of meeting and agenda were posted on the City Hall notice board as required by law.

ROLL CALL

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

ABSENT:    None.

CONSIDER MINUTES OF LAWTON CITY COUNCIL MEETING OF JULY 10, 2001.

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

AUDIENCE PARTICIPATION:

Raymond McAlister encouraged participation at all events celebrating Lawton's Centennial.

Margo Lindstrom Lubbers, Elgin, Oklahoma, gave background of her friend Ernie Cuny, an elderly veteran and retired preacher, and stated Mr. and Mrs. Cuny had been helping a single mother with three children who moved into the Cuny's home. On July 9, Mr. Cuny found that his VISA card and four checks had been stolen. Ms. Lubbers said she and Mr. Cuny went to his bank and filed an affidavit on forgery, and that afternoon Mr. Cuny filed a police report. The reporting officer instructed Mr. Cuny to call and find out which detective was assigned to the case; on July 10 he found that Detective Yarbrough had been assigned to this case. Mr. Cuny's calls to Detective Yarbrough were not returned. Lubbers said Mr. Cuny asked her to call Detective Yarbrough on July 16 and she discovered Detective Yarbrough had gone on vacation until July 30, so she spoke with the detectives' secretary who asked LT Wright, Yarbrough's supervisor, to assign the case to another detective since Yarbrough had done no work on this case prior to going on vacation. Lubber said spoke to LT Wright on Friday, July 20 and he explained there was no one available to work on the case. She said there are slots for 16 detectives in Lawton and 15 of the slots are filled; to fill the remaining slot, a patrolman would have to be promoted into that department and patrolmen are currently overworked and they cannot afford to move a patrolman at this time. Of the 15 detectives, each one receives an average of two new cases a day, so if a case takes longer than four hours to solve, there is a backup of cases. There are two detectives who work bad checks so every time a merchant receives a bad check, it is an additional case for these two detectives.

Lubbers said she believed Detective Yarbrough, LT Wright, the Lawton Police Department and the Lawton government all care about Ernie Cuny, and want to protect the local merchants and citizens but this is not being done. She again reviewed Mr. Cuny's outstanding military service record and church work and his being 84 years old, and said in such cases, no one wants to hear that we are understaffed and overworked. Lubbers asked that Council consider an item for additional funding for the police department.

## BUSINESS ITEMS:

1. Consider adopting an ordinance amending Section 6-6-1-602, Chapter 6, Lawton City Code, 1995, providing for denial of contractors registration certificate; enacting a new section providing for revocation of Building Contractors Certificate. Exhibits: Ordinance No. 01-25.

Dan Tucker, Building Development Director, said the ordinance adds a provision to allow the City to have the power to deny a contractor's registration certificate if that contractor has shown incompetence in construction, has a lack of knowledge in such matters, or has failed to perform normal business obligations. The ordinance also provides that if the City has already issued a certificate to a person who displays these same three tendencies, staff could revoke the license until a hearing can be held. These procedures are currently effect for plumbers, electricians, and heating and air contractors, and this would extend those procedures to the building contractor. Tucker said this should allow us to keep a person from repeatedly obtaining building or demolition permits and doing nothing with them. He said it is not uncommon for a person to obtain a demolition permit, knock a building down and leave the debris on the ground, then request a demolition permit for another address before ever having finished the other one. Tucker said the ordinance will allow staff to disapprove the request for additional permits unless there are good reasons. He said he understood situations cause project delays but when it becomes a nuisance to the community or a problem with a person not fulfilling his obligations, staff has no options without this ordinance.

Tucker distributed photographs of a property as an example. The person doing the job is a City-licensed building contractor; the first picture is a general layout and stem wall for a sun room addition to a lady's residence. The stem wall is sitting on top of the ground, goes into the earth only about two inches and has no footing. The second picture shows the quality of the work on the stem wall, which has already broken in half. The third picture shows the materials on site and the lady, who has asked for assistance from the City staff is in her 80's and lives in a very nice, well-kept home; the materials shown in the picture were represented by the contractor to her as \$8,000 worth of material that he had already collected the money for, of the almost \$12,000 for the total project, she has paid him \$8,000 for the materials. Tucker said we are going to do things other than just revoke and reject the construction project, but this is the type of thing that if this man were to talk in tomorrow and request a building permit for another sun room, he would have no choice other than to issue him one because he did not have the authority or ability to say no, your work practices need to be reviewed.

Shanklin asked what will happen in this case and if a building permit was issued in the beginning. Tucker said there was not a building permit requested; the man told the lady she was better off not getting the permit because it was an extremely high cost. Mayor Powell asked how the ordinance would help a situation like this. Tucker said the permit would make us aware of it. Mayor Powell said the man did not ask for a permit. Tucker said we have the ability to file charges on him for not obtaining a permit, and there are other things we can do through the court system. Tucker said the ordinance does not require a person to be an engineer or home builder, but if a person has demonstrated that they do not know what they are doing, they need to hire someone that does.

Devine said inspections are to be done when footings are dug before the concrete is poured. He asked if the contractors would have an appeal board. Tucker said yes, if an action is taken, the appeal would automatically go to the Building Development Appeal Board and if it is not resolved there, it comes to Council. Devine said he wanted that brought out in the open. Tucker said of the four categories of contractors, this is already in place for three of them.

Shanklin said once the concrete is poured, it is permanent. He asked if there was a way to have the concrete company see an inspection sticker from the City prior to pouring the concrete, or the concrete company could ask the person ordering the concrete to have that on site prior to pouring. Vincent said he would have to check on whether that could be done. Vincent said some contractors say they are licensed by the City, which gives the homeowner an impression that they are reputable, but the City has no ability to reject the license right now. Mayor Powell said the concrete companies are in the business of selling concrete. Tucker said the ordinance change may not prevent some of this from happening but he would at least be able to call a person and tell them we would not issue further permits until they show they know how to do a footing and so forth. Mayor Powell asked if this would help the good guy who is out there trying to do a good job. Tucker said yes and it will not hinder them at all.

Devine said it would give some teeth to stop some who are not doing good work but it will not stop all of it.

MOVED by Devine, SECOND by Moeller, to approve Ordinance No. 01-25, waive reading of the ordinance, read the title only.

(Title read aloud) Ordinance No. 01-25

An ordinance relating to building contractors, amending Section 6-602, Chapter 6, Lawton City Code, 1995, providing for denial of contractor's registration certificate; enacting a new section providing for revocation of building contractor's certificate; providing for codification; and providing for severability.

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

2. Consider approving the purchase of the properties located at #3, #5, #7 and #9 NW 53rd Street, Lawton, Oklahoma, contingent upon changing restrictive covenants, and authorize the Mayor and City Clerk to execute the acceptance of these Real Estate Purchase Contracts. Exhibits: None.

Vincent said #3 NW 53rd Street had been on the agenda previously and Council requested the remaining three be brought if contracts could be negotiated so they could be considered together. Contracts have been negotiated with the three other property owners and the prices are in the agenda item.

Mayor Powell asked if the contingency clause is if we do not get 50% plus one that we do not have a sale on the properties. Vincent suggested the motion be that the signature of the Mayor and City Clerk not be affixed to the contracts until after the 51% signatures are received, approve it contingent upon that issue. Mayor Powell said we will do our own contingency if it is not part of the contract. Vincent said yes. Vincent suggested a time limit be included so the people are not left hanging. Moeller asked how long it would take to get the signatures. Vincent recommended no more than 30 days.

Baxter said he could not support this. He said this has been discussed at length and half a dozen locations have been picked out; we have wasted a lot of time and some taxpayers' money. Baxter said if we are not going to do what is right to save the taxpayers' money, then we at least should respect what the Fire Chief recommended and this is not it and he would not support it for that reason.

MOVED by Devine, SECOND by Purcell, to proceed forward to try to buy these houses, get the contracts signed with the contingency as Vincent stated. AYE: Haywood, Hanna, Devine, Purcell, Moeller. NAY: Baxter, Bass, Shanklin. MOTION CARRIED.

3. Consider entering into a Raw Water Purchase Agreement to sell raw water to Charles and Doris Snyder from the pipeline system between Lake Ellsworth and Lake Lawtonka and authorize the Mayor and City Clerk to execute said agreement. Exhibits: Letter of Request; Location Map; Summary of Agreement.

Bob Bigham, City Planner, said the 42" pipeline crosses the Snyder property; they propose to draw water from an air release vault, and the water will gravity flow to a stock pond on Mr. Snyder's property and it can be pumped to his barn to water his livestock. An agreement has been prepared and this is the first agreement off of this pipeline. The City Attorney and Public Works Director have reviewed it. A summary of the contract terms shows the rate is seventy-five cents per thousand, monthly bill with 10% penalty with a termination clause and \$100 reconnect fee, maximum of one million gallons per month, water is to be used for agricultural purposes, a \$350 deposit, a one-year contract with four additional terms and renewals for each term will have to come back to the Council. There is language where the City will be held harmless, and it is the sole discretion of the Council to terminate the contract if water is needed for something else. There are no warranties as to the quantity or quality of water. Bigham said water will only be able to be passed through this 4" meter if we are pumping from Lake Ellsworth to Lake Lawtonka and Mr. Snyder is very aware of that.

Purcell asked if seventy-five cents per thousand is the same price others are paying for raw water. Bigham said the only other contract he was aware of was with Ramon John and that is for seventy-five cents, and there is the ability on the anniversary date of the contract to raise the rate.

Bass asked the cost for the 4" meter. Bigham said about \$2,000 and it is the cost of the meter plus 5%.

MOVED by Purcell, SECOND by Baxter, to approve the Raw Water Purchase Agreement with Charles and Doris Snyder. AYE: Baxter, Bass, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood. NAY: None. MOTION CARRIED.

4. Consider directing staff to prepare and submit a Hazard Mitigation Grant Program (HMGP) Application to the Department of Civil Emergency Management for the preparation of an All-Hazard Mitigation Plan, determine funding, and authorize the Mayor and City Clerk to execute said application. Exhibits: Summary of Six (6) Programs for HMGP Funding; Letter from the Oklahoma Department of Civil Emergency Management.

Bob Bigham said this application is to prepare an all-hazard mitigation plan. The estimated cost is \$20,000; 75% federal funds, 25% local share recommended from Council Contingency; the City will pay for the entire project and be reimbursed. The plan will identify natural and manmade hazards, and possible solutions before a disaster happens. The City does not have this right now and it is a prerequisite for receiving hazard mitigation grant funds. This will also work well with the Project Impact Program. Deadline is August 15 and staff will prepare the application if so directed.

Purcell said the plan would likely come up with very expensive recommendations and Council recently decided not to spend large amounts because of the match requirements. Bigham said the first phase is for Council to authorize

a Notice of Intent, which was done earlier in the year; the packet shows six projects the City committed to on Notice of Intents. The first invitation was for purchase of repetitive loss flood properties and on June 26 Council declined to submit that grant application, so this is the second invitation. Bigham said there may be recommendations in this plan to do certain things to prepare for natural disasters, but it is a plan that identifies a hazard and possibly historical events on how this has impacted our community. It could show recommended actions to take, expensive or not, and then an action plan to fund those projects. It makes no commitment for the City to do any of those projects, it is just a plan.

Purcell asked how long is the plan good for. Bigham said there is no set time; the State mitigation plan is updated every five years. \$20,000 is required and \$15,000 will be reimbursed for the plan.

MOVED by Baxter. SECOND by Moeller, to direct staff to put the application in to the Department of Civil Emergency Management and fund the \$5,000 from Council Contingency. AYE: Bass, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Baxter. NAY: None. MOTION CARRIED.

5. Hear discussion, in open session, from James D. Sill, or an associate attorney from his law firm, regarding the subrogation claim of the City of Lawton associated with the case styled Delisa Nevaquaya v. American Home Products, Case Number CJ-98-665 and CJ-98-666, District Court of Oklahoma County. Exhibits: None.

Tim Wilson, Assistant City Attorney, said Shannon Sill is present to speak in open session regarding the City's subrogation claim, and an executive session is on tonight's agenda to allow Council to further consider the matter.

Shannon Sill said she is an attorney from Shawnee practicing with Mr. Sill. She said she was present on behalf of Delisa Nevaquaya, who many of the Council already know, a former City employee who is now medically disabled. She asked Council to conclude its subrogation claim against Ms. Nevaquaya and asked the Council to vote to close this file without filing a lawsuit against Ms. Nevaquaya or taking any other action to try to obtain money from her in regard to any settlement she has received.

Sill said they see the issues to be that the City of Lawton has a possible subrogation claim regarding the settlement Ms. Nevaquaya has received. Subrogation is the legal theory that because of a contract or a relationship, one party may be entitled to payment if an injured party receives payment from a third party in a settlement. She said we cannot give any particulars of this settlement because of a confidentiality agreement and Mr. Wilson has also entered into a confidentiality agreement based on this information. Sill said the issue becomes what choices do you have as the City Council in this situation and what should you take into consideration in making your decision.

Sill said it was her understanding the City Council undertakes some action that is administrative and some that is legislative, and here the direction would be legislative and determined by a majority vote, so she also supposed the Council had a mandatory action or discretionary action. She said the health plan uses the word "may" which implies there is discretion to make a decision.

Sill said why the City should not try to file a claim or file a subrogation is simply because it is the right thing to do; the City did not have anything to do with helping Ms. Nevaquaya win her settlement. We often as plaintiff's attorneys, have workers' compensation carriers or other insurance carriers who will work with us in obtaining settlement for our client and obviously we are happy to recompense them for that work, but in this situation, the City was not involved in that at all, so any funds the City would receive from this would practically be a windfall. Sill said she was not denying at all that the City has expended great funds on behalf of Ms. Nevaquaya and her medical care. She said when a city or insurance company undertakes to provide medical care for their employees, there must be some statistical probability involved assuming there will be persons employed by the City who unfortunately have a severe medical problem. It is unfortunate that sizeable bills have been incurred from Ms. Nevaquaya, but that is what health plans are for and she regrets the money was expended but she was a wonderful employee working for the City of Lawton from June 1992 through December 2000 as City Prosecutor. She is not able to work now because she is suffering from serious illness and is on the lung transplant list and this afternoon had four appointments with her physician. We all hope her prognosis improves, she has the transplant and goes on with her life, but for now, she cannot breath even well enough to walk across the room, so while medical expense and loss of work are significant, none of us can even imagine what it means to her life.

Sill said she knew the Council tried to vote to do what was in the best interest of the City of Lawton and that is their first and foremost responsibility, but she also suggested there was a responsibility to the employees. She said the Council has the discretion and is entirely justified if they chose to help Ms. Nevaquaya in this way; we do not usually get a chance to do something for someone else and that is what we are asking you to do. Sill suggested the Council discuss the matter with Wilson in executive session.

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

Jerry Ihler, Public Works Director, gave a Powerpoint presentation which is summarized below. The 2000 CIP

contains \$45.5 million in sales tax and \$25.9 million in ad valorem tax.

Water Treatment Plant: \$13 million funded from sales tax; \$17 million funded from ad valorem tax to expand to 40 mgd. A mandatory pre-bid conference was held in late May and only two prime contractors attended so a second mandatory pre-bid conference was held July 12. Prior to the second pre-bid conference, we personally contacted 10-12 large firms to encourage them to become interested in our project. The July 12 pre-bid conference had five prime contractors in attendance. The bid opening is scheduled for July 31, but one contractor requested it be extended to August 7 and indicated they would bid if the opening was extended, so it will be extended to August 7. In discussion with the five contractors, it is possible that only two may bid, but we will not know that until bids are opened.

Shanklin asked if this would be a lump sum bid. Ihler said yes, although there will be some unit quantities for items such as sodding. Shanklin asked if the contractors all know how much money we have. Ihler said they know the budget amounts and the amount required will depend on the competitiveness of the bids. Shanklin said it is scary to think only two people would bid on a \$40 million project. Ihler said the engineer's estimate will not be in the \$40 million range and would be something less than that. Shanklin asked who is preparing the engineer's estimate and Ihler said CH2M Hill. Ihler said only four prime contractors attended the pre-bid conferences on the Wastewater Plant project and only two of them bid, but we received favorable bids on that project.

Landfill Cells 2 & 3: Project was accepted March 24, 2001; cost was \$2.5 million. This provided ten years of additional landfill space depending on whether additional industry comes in. Burns & McDonnell is preparing the master plan for future expansion south of the existing landfill on the south side of Tinney Road where the City has approximately 430 acres. The master plan will look 30 years into the future, and they are also doing the design and seeking DEQ approval of plans for the first ten years on that landfill site to the south. As part of getting the site permitted, they are doing a lot of testing that DEQ will require, as well as doing the maintenance facility, and bids will be opened on that in September or October.

Water Pump Station #1: This pump station feeds the industrial tower at Cache Road and 97th and serves the west industrial high zone. A report was submitted to try to receive grant funds through ASCOG but no information has been received on whether that has come forward. Final design is on-going and we will have to move forward with that project which needs to be on-line and constructed by next summer.

Flower Mound Road from Gore to Rogers Lane: Robert B. Hendrick & Sons, Norman, is designing the project. It is an ODOT project for a four-lane road. ODOT has been asked to have a December 2002 bid letting. This project is in the five-year ODOT pool, meaning we are competing with other communities for that funding, but having a completed design means there is a better chance of receiving the funding.

East Side Park Improvements: C. H. Guernsey, Oklahoma City, is doing the final design; staff reviewed the design and provided comments last week. The project will consist of four youth baseball fields, parking, lights and irrigation. Bids may be opened in September or October. Purcell asked when the baseball fields might be ready since the fields behind Shoemaker Center were lost. Ihler said they will not be ready by next summer; Salva said he hoped they could be used for football next fall.

Gore Boulevard from 67th to 82nd Street: MGR, Inc., Edmond, is designing the ODOT project, four-lane road. This project is further down the list than 38th, and Flower Mound, in that it is not in the five-year pool yet, however, it has been accepted for programming meaning ODOT has allowed us to proceed with the design and they have assigned a project number, but it is not yet in the five-year pool.

Central Junior High, Lawton Public Schools: This is being administered by Lawton Public Schools. Monthly transfer are made to help fund the construction of that project.

Economic Development: On June 13, 2000, Council appropriated \$250,000 to help fund the National Army Museum of the Southwest. On November 7, 2000, Council appropriated \$187,000 to help fund the infrastructure improvements for the Silver Line Plastics Corporation facility. Those infrastructure improvements consisted of a roadway and a water line, and both of those improvements are complete.

Water Distribution Project 2000-12: Funded from ad valorem tax. Project is being constructed by S.M. Burk Mechanical Contractors, Lawton, to install four miles of water line. It was rainy from October through March, and even though the contract time is shown as 340 days and the contract has been in effect for a year, they are still well within their time frame. Several projects have been added to this contract.

Work has been completed on Woodridge Drive in Mission Village; the waterline to Silver Line Plastics; and Elmhurst, Dorchester, Ford and 45th Street in Sullivan Village. The waterline to soccer fields in McMahon Park was completed and was funded from the 1995 CIP. Work continues in the Hunter Hills area on Andrews, 75th Street, Lawton and Baldwin; service lines remain as well as a tie-in at 75th and Baldwin, then some concrete work, sodding and clean-up which should be finished in three to four weeks. Another project that was added was lines along E, F and 21st, to provide adequate fire protection for the area and it should be finished in about three weeks. Work should start in two to three weeks in Rolling Meadows, which will address lines on Lincoln, Williams, Pollard, and Floyd, and then in the 43rd, 44th and 45th Street areas.

Water Distribution Project: Project is being constructed by Krapff-Reynolds, Midwest City, for five miles of water line in Liberty Heights Addition, Morford Addition, Lee Addition, and Mountain View Addition. Those lines south of Ferris Avenue are substantially complete; 13th and Lake was poured today. North of Ferris in the Liberty Heights area has quite a bit more to be completed. Tie-ins will be done on Thursday in the Cache and 20th area and Cherry and 17th. Service lines, concrete work and clean up should be completed in two to three months.

NW 38th Street from Cache to Rogers Lane: This is an ODOT project for a four-lane road. Final design is on-going and the project is in the five-year pool. Lawton has prioritized this project as first, then two miles of Flower Mound, and one mile of Gore Boulevard. Bass asked how long it would be before this project is done. Ihler said we asked ODOT for a July 2002 bid letting date and they indicated they would try to meet that schedule, but experience has shown that since you are competing with a lot of communities and it depends on the money available in the pool, that may slide some. Bass said the City crews resurfaced that road and it is much better than it was.

Fire Station #5: GBA Architects has been told to put the preliminary design on hold until all properties are purchased and the restrictive covenants and zoning can be addressed.

1995 CIP:

Flower Mound Road from Lee to Gore: This is an ODOT project. Adding this to the other three for ODOT, this has the highest priority because it serves the veterans' facility being constructed at Flower Mound and Gore. Funding has been secured from a different funding pool, so preliminary plans are being designed for submission to ODOT. Construction time frame may be about a year out.

Residential street projects for SW 75th St. and SW Crystal Hills Drive plans are almost designed and may be bid together for economy of scale in September to October. The Wendy Avenue project has only survey work done on it.

Storm warning sirens: 15 will be installed. Poles have been delivered and installation will take two weeks.

Ihler asked Salva to address the parks projects.

Moeller asked that 67th Street between Cache Road and Highway 62 be considered if funds are available because it is in very bad shape and carries a lot of traffic, especially Fort Sill traffic.

Gary Salva, Parks & Recreation Director, said \$400,000 was appropriated for McMahon Park. \$200,000 will be used to construct a cinder path walking trail that was in the original design and the McMahon Foundation is extremely interested in that being done. The trail would circle behind the ballfields up to Wolf Creek, then cross, and the possibility exists for a future bridge, when funding becomes available, to tie in the other half of McMahon Park. The work would be done in-house. The project would also include construction of small shelters and restroom facilities. \$40,000 of the \$200,000 was spent on the water line which will support development of the soccer field. The other \$200,000 will be used to light fields one and two of this five ballfield complex. Engineering is reviewing the design and it will be bid in the near future so the fields should be lighted by March/April in time for the ball tournaments.

Salva said \$10,000 was previously allocated from Council Contingency for a temporary skateboard park, so there is \$210,000 total available for a permanent skateboard park. Engineering proposals are due by August 10 with the applicants then going to the Engineer Selection Committee. The RFP mentions a minimum of two public meetings with the youth of the community. These youth through their petitions were the grass roots efforts to have the skateboard park constructed and we want to include them in the design process. Staff is leaning toward an all-cement structure, fencing for security so it can be locked, and lighted. Staff has researched many skateboard parks throughout the country and found many mistakes were made so we are trying to learn from those mistakes, so we are moving cautiously and want to design a good structure. Very nice facilities have been built for \$100,000 so we are confident that even with the architect's fee we will have a premiere facility.

Salva said a large pavilion and playground will be built in house after the skateboard facility, and a BMX bike course may be constructed so this will definitely be a youth complex in addition to the softball fields, with a basketball court, skateboard park, playground, shelters and possible BMX course. Salva said \$610,000 is going toward improvements in McMahon Park and the skateboard park.

Purcell asked when the skateboard park might be open for use. Salva said April/May of next year.

Haywood asked how many basketball courts were planned. Salva said four lighted basketball courts. Salva said there is the possibility of corporate sponsorship money on some items if a legal hurdle can be cleared.

Mayor Powell said the only complaint he had heard was about taking the water line south from Lee Boulevard to the soccer field. He said residents in the Wolf Street area could have tied to the line if it were routed differently

and if there was a large enough line to support them, but those residents are still providing their own lines, so that can be considered in the future.

CONSENT AGENDA :

Mayor Powell asked that Item 15 be stricken, and that Items 14, 16, 17, 18 and 19 be considered separately. Other items requested for separate consideration were: Item 12 (Baxter); Item 29 (Moeller); Item 10 (Bass); Item 25 (Shanklin).

MOVED by Shanklin, SECOND by Moeller, to approve the Consent Agenda items as recommended with the exception of those that have been stricken or removed for separate consideration. AYE: Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Bass. NAY: None. MOTION CARRIED.

7. Consider the following damage claim recommended for approval and consider passage of resolution authorizing the City Attorney to file friendly suit for claims which are over \$400.00: Desmon D. Harvey. Exhibits: Legal Opinion/Recommendation; Resolution No. 01-111.

(Title only) Resolution No. 01-111

A resolution authorizing and directing the City Attorney to assist Desmon D. Harvey in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the amount of One Thousand Nine Hundred Seventy-Five Dollars and 60/100 (\$1,975.60).

8. Consider adopting a resolution ratifying the action of the City Manager and City Attorney in not pursuing an appeal and making payment of the judgment in the Workers' Compensation case of Lonnie C. London in the Workers' Compensation Court, Case No. 2001-8498F. Exhibits: Resolution No. 01-112.

(Title only) Resolution No. 01-112

A resolution ratifying the actions of the City Attorney in making payment of the judgment in the Workers' Compensation case of Lonnie C. London for the amount of Sixteen Thousand Six Hundred Forty-Two Dollars and 00/100 (\$16,642.00), per order of the Workers' Compensation Court, and filing a foreign judgment in the District Court of Comanche County for purposes of placing said judgment on the tax rolls.

9. Consider approving a renewal agreement effective July 1, 2001 through June 30, 2002 between the State of Oklahoma Office of Juvenile Affairs and the City of Lawton for the continued operation and management of a Community Intervention Center in Lawton, and authorize execution of the renewal agreement. Exhibits: Interlocal Agreement. Action: Approval.

10. Consider approving a renewal agreement between the City and Marie Detty Youth Services for the continued operation and management of a Community Intervention Center in Lawton; and authorize execution of the renewal agreement. Exhibits: Agreement.

Bass asked if it was correct that Marie Detty has not charged anyone in the past for this service and if they are now going to charge \$25 per child.

Paul Smith, Marie Detty Youth and Family Services, said they have not charged in the past for the Community Intervention Center, which started out with \$115,000 in City funding and has gradually decreased but there was a small increase from the State. It was estimated that 500 kids would come through the CIC but it has been 1,200 per year so costs have increased. Smith said Lawton and Oklahoma City do not charge a CIC fee, and Oklahoma City contributed about \$400,000 so they do not need to charge a fee, but for us to maintain a safe place with adequate staffing, a processing fee is needed. Smith said the City would not be responsible for collecting the fee and it would be only for those families where kids are brought in for curfew violations or similar situations. Bass asked if it was due to a \$20,000 budget shortage. Smith said yes, the declining budget over the last few years plus an increasing usage.

Baker asked Smith if any services would be refused to the youth and if they would collect this after the fact from the parents or attempt to. Smith said they would take the child at the CIC no matter what, but when they call the parent, they will inform them of the \$25 processing fee and if they cannot pay it when they pick the child up, they will bill them later or have it paid through court restitution.

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

11. Consider approval of the sign to be placed in the Gore Boulevard median to support the Boulevard of Lights. Exhibits: Drawing. Action: Approval.

12. Consider adopting a resolution to reappoint Mr. Steve Glick to the Lake & Land Commission. Exhibits: Resolution No. 01-114.

Baxter said he did not support this at the last Council meeting and did not want it to slide by on the consent agenda without letting some people know that City Code Section 2-3-1-300d states "Members appointed to boards, commissions or committees must be actual residents within the corporate limits of the City or Fort Sill at the time of their appointment and during the term of office unless provided otherwise by state law, ordinance, resolution or action of the City Council." Baxter said for all of those who have approached him about serving on boards or commissions, the Council is going to allow out of towners on boards and commissions and Lawton citizens should remember that at election time.

Shanklin said he would move that Council approve of this action; Mr. Glick moved after he had served for about a year on the Lake & Land Commission and this will allow him to complete his term and it in no way opens it up to outsiders or out of towners. It is a single issue and we are only allowing Mr. Glick, who wants to give of his time, resources and energy, to help on the Lake & Land Commission.

MOVED by Shanklin, SECOND by Purcell, to approve Resolution No. 01-114. AYE: Purcell, Shanklin, Moeller, Haywood, Hanna. NAY: Baxter, Bass, Devine. MOTION CARRIED.

(Title only) Resolution No. 01-114

A resolution determining that it is in the best interest for the Mayor and Council to continue the membership of Mr. Steve Glick as an active member of the City of Lawton Lake & Land Commission.

13. Consider adopting a resolution designating a place and time within municipal jurisdiction for a public fireworks display conducted by the City on August 4, 2001, in celebration of the City's Centennial. Exhibits: Resolution No. 01-113.

(Title only) Resolution No. 01-113

A resolution designating the place and time within the Municipal jurisdiction for a public fireworks display conducted by the City on August 4, 2001.

14. Consider approving an agreement between the City and Western Enterprises, Inc. for a public fireworks display in conjunction with the Centennial Celebration on August 4, 2001. Exhibits: None. \*Note: Items 14 and 16-19 were considered together after Item 29. Items are shown in numerical order in the minutes for ease of reference.

15. Consider approving agreements between the City and Native American performers and services in connection with provision and set up of tepees for the Centennial Celebration on August 4, 2001. Exhibits: None. THIS ITEM WAS STRICKEN AS SHOWN ABOVE.

16. Consider approving agreements between the City and jazz performers for the Centennial Celebration on August 4, 2001. Exhibits: None.

17. Consider approving an agreement with Journey Productions for technical services leading up to and through the Centennial Celebration August 2 through August 6, 2001. Exhibits: None.

18. Consider approving an agreement with Lawton Rangers for the cost of food and supplies for the Centennial breakfast on August 4, 2001. Exhibits: None.

19. Consider approving an agreement with Frontier Music for sound equipment for the Centennial Celebration. Exhibits: None.

Mayor Powell said he wanted to pull these items to let people know the Centennial group has done a fantastic job and the celebration is at hand. Banners are being put up and Lawton's flag is being displayed.

Gary Jackson distributed updated budget figures on the Centennial, which are a little lower than those approved last February and said that some of the numbers have changed.

Mayor Powell said a free breakfast will be offered at 6 a.m. on August 4 in Elmer Thomas Park. The celebration will continue throughout the day and end with fireworks, which are not prohibited by the burn ban. All of the events are in Elmer Thomas Park by McMahan Auditorium and the Museum; the breakfast will not be at the L.O. Ranch as it has in the past.

Devine asked about the parking situation. Mayor Powell said parking is available at the Auditorium, Museum, Lawton High area, and side streets, and asked that people not park in front of the driveway of any resident or block their access.



Moeller asked if the riders coming in from Ambrosia Springs would arrive at Elmer Thomas Park at 9 a.m. Margaret Chalfant, Arts & Humanities Coordinator, said the opening ceremonies will be at 9:45 a.m., the General will bring the proclamation at 10 a.m., as well as the colors, half section, wagons and the riders.

Purcell asked if Council had appropriated \$125,000 for the Centennial. Baker said yes, and Council transferred \$15,000 to hire the coordinator, so it is \$140,000. Purcell asked if we are well within that \$140,000 with the items being approved tonight. Mayor Powell said yes.

Mayor Powell thanked those who had come forward with sizable personal contributions and said the donors did not ask what the money was going for but they just wanted to make it a better celebration. He said many other cities in this area, as well as many local churches, are also having Centennial celebrations. The Museum has souvenirs for sale and the money goes to the Museum to further their causes.

Jackson said on the budget, the amounts span two different years and actually accumulates funds over several years that the City put aside dollars within the budget toward the Centennial with a final \$25,000 appropriation being made in this fiscal year, so you will not find those numbers looking in any one budget because it is really spanning expenses and revenues collected over a few years.

MOVED by Baxter, SECOND by Bass, to approve Items 14, 16, 17, 18 and 19. AYE: Haywood, Baxter, Bass, Hanna, Devine, Purcell, Shanklin, Moeller. NAY: None. MOTION CARRIED.

20. Consider ratifying the Mayor's signature accepting a grant for Local Government Challenge from the Oklahoma Arts Council. Exhibits: None. Action: Approval.

21. Consider authorizing the Director of Finance to endorse an insurance check issued To The Order Of: Colorgraphics "The Print Shop" Inc. and City of Lawton Housing and Community Development and City National Bank in the amount of \$2,156.00. Exhibits: Copy of The Hartford Check No. 036139460 dated 07/12/01 in the amount of \$2,156.00. Action: Approval.

22. Consider acknowledging receipt of permits for the construction of modifications to the water treatment plant from the Oklahoma State Department of Environmental Quality. Exhibits: None. Action: Approval.

23. Consider approving an agreement between the Center for Creative Living Corporation and the City of Lawton for services to senior citizens. Exhibits: Letter. Action: Approval.

24. Consider submitting to the Board of County Commissioners of Comanche County a revised agreement between the County and the City of Lawton for library services to Comanche County residents and authorize the Mayor to execute the agreement. Exhibits: None. Action: Approval.

25. Consider entering into a contract with the Fort Sill Apache Tribe of Oklahoma for fire protection outside the Lawton City limits. Exhibits: None.

Shanklin said he was assuming this was outside the City limits. Don Barrington, Fire Chief, said it is outside the City's jurisdiction. Shanklin asked if we are allowed to enter the property. Barrington said this is consistent with most of the outside fire contracts and allows us to charge them when they call us to respond to their property. Shanklin asked if we had ever looked into charging a yearly fee. Vincent said he and the Manager had discussed it but it creates a liability if we cannot respond due to limited resources. Vincent said this property is inside the City limits, it is the casino on East Gore, and the existing two-year contract is expiring and they asked that a new contract be approved.

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

26. Consider approval of a Mutual Assistance Agreement between the City of Lawton and the City of Altus, Oklahoma. Exhibits: None. Action: Approval.

27. Consider entering into contracts with Mr. Ronny Brooks, Mr. Jesse Bailey and Mr. Nick Richards for fire protection outside the Lawton City limits, and authorize the Mayor and City Clerk to execute the contracts. Exhibits: None. Action: Approval.

28. Consider approving the following contract extensions: A) Traffic Signal Parts and Equipment with Traffic Parts, Inc.; B) Traffic Signal Parts and Equipment with Pelco Products, Inc.; C) Shampoo/Steam Clean Carpet with Premier Carpet and Air Duct Cleaning, Inc.; D) Elevator Maintenance with Thyssen Dover Elevator Company; E) Testing Services with Standard Testing and Engineering Company; F) Testing Services with QuanTEM Laboratories, Inc.; G) Rental Equipment with Hertz Equipment Rental Corp.; H) Rental Equipment II with ICM of

Oklahoma City. Exhibits: None. Action: Approval.

29. Consider awarding contract for Coagulant Aid Clay. Exhibits: Recommendation; Bid Abstract.

Moeller asked what coagulant aid clay is and does. Ihler said it is a chemical that is added to the water which allows small particles to stick together and become heavier and then settle out in the process.

MOVED by Moeller, SECOND by Baxter, to award the contract to Wyo-Ben, Inc. AYE: Moeller, Haywood, Baxter, Bass, Hanna, Devine, Purcell, Shanklin. NAY: None. MOTION CARRIED.

30. Consider awarding contract for Jailer Uniforms. Exhibits: Recommendation; Bid Abstract. Action: Award contract to Skaggs Public Safety.

31. Consider approval of appointments to boards and commissions. Exhibits: Memorandum.

Emergency Management Advisory Committee: Michael Baxter, Councilmember; Bill Baker, City Manager; Bill Adamson, Police Chief; Don Barrington, Fire Chief; Jerry Ihler, Public Works Director; Bob Bigham, Planning Director; Doug Wells, Information Services Director; Richard Atkins, County/City EM Director; Randy Segler, Comanche County Memorial; Tom Rine, SW Medical Center; Barry Beauchamp, LPS Superintendent; County Health Department Administrator; Fort Sill Representative; Broadcast and Print Media: Hess Cara, Lawton Constitution; Industry: Goodyear Representative; Small Business: Pat Henry; Human Resources: American Red Cross Representative.

32. Consider approval of payroll for the period of July 9 to July 22, 2001. Exhibits: None.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Hanna urged residents to take appropriate precautions due to the heat.

Devine asked the status of the abandoned Wastewater Treatment Plant. Ihler said the phase one assessment was submitted to the Corporation Commission; the phase two environmental assessment is a detailed analysis including a groundwater monitoring well and Entercon of Oklahoma City is doing that work; they were also authorized to proceed with design to demolish and clean up the site. Funds have not been identified for demolition and remediation of the site. Devine asked if there is a deadline. Baker said no but the State School Land Commission wanted to see some progress before entertaining the idea of some property for a possible Southeast Water Treatment Plant. Baker said progress has been made and attempts will be made to identify funding when cost estimates are received.

Purcell thanked Public Works for work on East Cache Road and on Flower Mound Road, and for working in the heat. He said work should be done before school starts which is critical for the buses.

Shanklin said ARKLA has fixed some alleys but not all of them. Mayor Powell said an ARKLA official told him they are changing their process and will place screenings wherever they excavate in alleys so this will not be a problem any longer. Shanklin said he just wanted them to fix the ones that are damaged. Baker said he could have specific addresses turned in.

Shanklin asked the status of the water rate study. Baker said it should be finished within 30 days.

Shanklin said Lawton High students are loitering at 10th and Euclid and the School Board will consider putting that off limits, then it will be up to the police to move them on out. He said the area residents are tired of the intimidation and the mess that they leave.

Shanklin asked if there was information about the jet ski accident at the lake. Baker said he got a report that there was a wreck and an injury but he had no other information.

Moeller complimented the street crews that are working on the streets that are being torn up by the heat, and that causes them to be working in the heat also.

Baxter said the Centennial of a city happens only once in a lifetime and he encouraged everyone to come out for any and all of the events. He said many people did a good job of organizing it and we need a lot of people to come out and enjoy the activities and help Lawton celebrate.

Mayor Powell read portions of a letter from Fayetteville, North Carolina, expressing appreciation to Lawton's Animal Shelter staff for assisting them in improving their ordinances and methods of operating, and they have patterned their operations after Lawton's.

Mayor Powell commended staff and news media for providing good notification on the air alerts. He said information is available in the form of refrigerator magnets, brochures and posters. He said we are working through the Lawton Public Schools for posters for elementary, junior high and high school children to have an education program on the ozone alert and air quality.

Jackson said he was proud to announce that he and the Mayor attended an awards ceremony today for the 2001 Trash Off Awards, and many of the Council were involved in that program in April. He said in our second year of participation we won two state-wide awards, first for the most volunteers and Fort Sill is a tremendous aid in that award, and in the amount of trash collected. Lawton had 1,616 volunteers and 2,561 bags were collected, which is about 16-1/2 tons of litter. Mayor Powell said he appreciated Jackson's attending and that Marilyn Fever also participated in receiving the awards from Governor Keating, along with the new Secretary of the Department of Transportation, Mr. Herschel Crow, who is from Altus.

#### BUSINESS ITEMS:

33. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending lawsuit of James Warren Phillips vs. The City of Lawton and Gary Jackson, Case No. CIV-01-1044T, filed in the United States District Court of the Western District on the 5th day of July, 2001, and take any appropriate action in open session. Exhibits: None.

34. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the City's claim associated with the case styled Delisa Nevaquaya vs. American Home Products, Case Numbers CJ-98-665 and CJ-98-666, District Court of Oklahoma County, and if necessary, take appropriate action in open session. Exhibits: None.

35. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a settlement offer in connection with a possible reaffirmation of the City's claim by the debtors in a Chapter 7 bankruptcy styled In Re: Gregory & Christina Mucker, Case Number 01-14914WV, Western District Court of Oklahoma, and if necessary, take appropriate action in open session. Exhibits: None.

36. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending damage claim of Elliott J. Clements and take necessary action in open session. Exhibits: None.

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

The Mayor and Council convened in executive session at approximately 8:15 p.m. and reconvened in regular, open session at approximately 8:40 p.m. with roll call reflecting all members present.

Item 33: Vincent reported that pursuant to Section 307B4, Title 25, Oklahoma Statutes, the City Council convened in executive session to discuss the pending lawsuit James Warren Phillips vs. the City of Lawton and Gary Jackson, Case No. CIV-01-1044T, filed in the United States District Court of the Western District on July 5, 2001 and that Council received a briefing on this litigation. He requested a motion that the City provide an attorney for Jackson, and that the attorney be Mr. Tony Puckett who is currently under retainer with the City for labor litigation.

MOVED by Shanklin, SECOND by Moeller, that the City provide an attorney for Gary Jackson and that the attorney be Tony Puckett. AYE: Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Bass. NAY: None. MOTION CARRIED.

Item 34: Vincent reported that pursuant to Section 307B4, Title 25, Oklahoma Statutes, the City Council convened in executive session to discuss the City's claim associated with the case styled Delisa Nevaquaya vs. American Home Products, Case #CJ-98-665 and CJ-98-666, District Court of Oklahoma County.

MOVED by Purcell, SECOND by Baxter, to authorize the City Attorney's office to continue negotiations. AYE: Devine, Purcell, Moeller, Haywood, Baxter, Bass. NAY: Shanklin, Hanna. MOTION CARRIED.

Item 35: Vincent reported that pursuant to Section 307B4, Title 25, Oklahoma Statutes, the City Council convened in executive session to discuss the settlement offer in connection with the reaffirmation of the City's claim in the Chapter 7 bankruptcy styled re: Gregory and Christina Mucker, Case No. 01-14914WV in the Western District Court of Oklahoma. He said no action is required at this time.

Item 36: Vincent reported that pursuant to Section 307B4, Title 25, Oklahoma Statutes, the City Council convened in executive session to discuss the damage claim of Elliott J. Clements. He requested a motion to authorize the City Attorney to enter into settlement negotiations.

MOVED by Moeller, SECOND by Baxter, to authorize the City Attorney to enter into settlement negotiations on the Clements claim. AYE: Purcell, Shanklin, Moeller, Haywood, Baxter, Bass, Hanna, Devine. NAY: None. MOTION CARRIED.

Mayor Powell said he was contacted by Mr. Langford from the City of Temple and they are running out of water. Temple gets its water from Waurika Lake and the big main that serves three cities began to leak so water has been turned off to let it dry up to rehabilitate the line. In the interim, they are getting their water from the Temple Lake, which may go dry before this line can be repaired. Mayor Powell said they were asking if Lawton could help them out and he certainly felt we needed to do that, so he called Baker and gave him their telephone number.

Baker said he spoke with the Mayor of Temple, as well as John Finley at Waurika, and if they cannot get the repairs done in a timely manner, Temple will need help from Lawton. They would like to gravity flow raw water from Lake Ellsworth through the Waurika pipeline to their lake and use the raw water. Baker said if they need this before the next Council meeting, if there are no objections, he would like to allow that to be done. Lawton will have no expense; Temple will be required to pay for a meter and valve, and that is basically all that would be required and the water would gravity flow. They use approximately 220,000 gallons per day and it would be for a very short period of time, and we would propose 75 cents per thousand which is what we sell raw water for to other people. Shanklin said as far as he was concerned the City Manager had that discretion. Baker said he would bring it back to Council to ratify that action if it is necessary. Baxter asked if they were willing to pay for the water. Mayor Powell said they are willing to do about anything, they just want water.

Purcell asked if the water would gravity flow from Lake Ellsworth or from Lake Waurika. Baker said it would be from Lake Ellsworth through the Waurika conveyance line.

Devine asked if Baker said they needed assistance in repairing the line. Baker said no, the only assistance they need is the water, and they would be responsible for any valving or meter installation and there would no cost to the City of Lawton.

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