

Meeting of 2003-1-14 Regular Meeting

MINUTES

LAWTON CITY COUNCIL REGULAR MEETING
JANUARY 14, 2003 - 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor Cecil E. Powell, Also Present:
Presiding Bill Baker, City Manager
 John Vincent, City Attorney
 Melody Cudd, Deputy City Clerk
 Colonel Steuber, Fort Sill Liaison

The meeting was called to order at 6:15 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
 Amy Ewing-Holmstrom, Ward Four
 Robert Shanklin, Ward Five
 Barbara Moeller, Ward Six
 Stanley Haywood, Ward Seven
 Michael Baxter, Ward Eight

ABSENT: None.

ADDENDUM TO AGENDA

1. Consider a Resolution approving action taken by the Lawton Water Authority authorizing issuance, sale and delivery of the Authority's promissory note to the Oklahoma Water Resources Board; ratifying and confirming a certain lease agreement, as amended; establishing the City's reasonable expectations with respect to the issuance of tax-exempt obligations by or on behalf of said City in calendar year 2003 and designating the Series 2003A SRF Promissory Note and Series 2003B Promissory Note to be a qualified tax-exempt obligation; and containing other provisions related thereto, and take action.

MOVED by Haywood, SECOND by Hanna, to approve Resolution 03-01. AYE: Haywood, Baxter, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin, Moeller. NAY: None. MOTION CARRIED

2. Consider a resolution approving action taken by the Lawton Water Authority authorizing issuance, sale and delivery of the Authority's promissory note to the Oklahoma Water Resources Board; ratifying and confirming a certain lease agreement, as amended; establishing the City's reasonable expectations with respect to the issuance of tax-exempt obligations by or on behalf of said City in calendar year 2003 and designating the Series 2003C SRF Promissory Note and 2003D Promissory Note to be a qualified tax-exempt obligation; and containing other provisions related thereto, and take action.

MOVED by Moeller, SECOND by Baxter, to approve Resolution 03-02. AYE: Baxter, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin, Moeller, Haywood. NAY: None. MOTION CARRIED

PRESENTATION OF CITIZEN OF THE MONTH AWARD TO SAUNDRA LUCAS

Edwina Reddick-Scott, Mayor's Commission on the Status of Women, introduced Sandra Lucas as Citizen of the Month, January 2003. Ms. Lucas was honored for all the valuable service she selflessly gives to the Lawton Fort Sill community and commended her for countless hours devoted to faith based programs, school programs, and community awareness occasions to expel the barriers and prejudices concerning HIV AIDS. As a pioneer in the community planning group of the State Health Department, she has been instrumental in getting resources and services to the Lawton-Fort Sill community. She holds accomplishments as a former board member of the American Red Cross, as a workshop presenter for the Regional Aids Inter-Faith Network; as well as having had the honor of reading at the National Quilt Display in Washington, DC. Mayor Powell presented awards from Senators Sam Helton and Jim Maddox, Representatives Ron Kirby and Abe Deuschendorf, Speaker Larry Adair, and Larry

Ward and the Office of the Mayor. Ms. Lucas challenged the citizens of Lawton, as compassionate neighbors, to assist those in need suffering from this silent disease and to be further educated in the efforts to teach others to discontinue the participation in behaviors that put the entire public at risk.

AUDIENCE PARTICIPATION: None

CONSENT AGENDA : Separate consideration was requested for Item 8.

MOVED by Baxter, SECOND by Bass, to approve the Consent Agenda items as recommended with the exception of Item 8. AYE: Shanklin, Moeller, Haywood, Baxter, Bass, Hanna, Devine, Ewing-Holmstrom. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for denial: James L. Schneider, Sr., and Southwestern Bell. Exhibits: Legal Opinions/Recommendations. Action: Denial of claims.
2. Consider the following damage claims recommended for approval and consider passage of any resolutions authorizing the City Attorney to file a friendly suit for the claims which are over \$400.00: Walter Lopez, \$678.31; Kylie and John Ward, \$50.00; Southwestern Bell (2 claims)\$847.11 & \$478.02; and Mickey Bentley and Karen Walden (2 claims), \$1,243.38 & \$65.00. Exhibits: Legal Opinions/Recommendations and 4 Resolutions. Action: Approve claims and adopt Resolution Numbers 2003-03; 2003-04, 2003-05, 2003-06.
3. Consider authorizing the Mayor to execute the Annual Certification of Army Material Status for the M101A1 Howitzer provided by the United States Army to the City of Lawton for display. Exhibits: Annual Certification of Army Material Status. Action: Authorize Mayor to execute annual certification provided by US Army to the City of Lawton display.
4. Consider approving the construction plans for the traffic signalization and roadway widening at NW 40th Street and Cache Road for the Home Depot development. Exhibits: Location Map. Action: Approve construction plans for traffic signalization and roadway widening.
5. Consider acknowledging receipt of permits from the Oklahoma State Department of Environmental Quality for the construction of sanitary sewer and water lines with appurtenances to serve Lowe's Addition. Action: Acknowledge receipt of permits for the construction of sanitary sewer and water lines with appurtenances from ODEQ to serve Lowe's Addition.
6. Consider accepting the Skyline East Park Project #2001-21 as constructed by Legacy Services, Inc. and placing the Maintenance Bond into effect. Exhibits: None. Action: Accept project and place the Maintenance Bond into effect.
7. Consider renewing the Lawton/Ft. Sill Arts Council building lease at 17th and Ferris. Exhibits: Contract in the City Clerks Office for review. Action: Renew contract for building use.
8. Consider accepting the annual audit report of the City of Lawton for the year ending June 30, 2002. Exhibits: Copies to the audit report have been distributed separately. Responses to internal control and compliance report, and Letter from Stanfield and O'Dell. Action: Accept annual audit report for the year ended June 30, 2002.

Baxter asked how the current investment policy was handled and questioned the statement on page 31, investment policies, first paragraph, a line that reads *securities are not held in the City's name*. Rick Endicott, Finance Director, said these investments are held in book entry form, a common investment practice, they are not in the City's name however, the City does own them, they are insured and staff does not see this as a problem. These are at higher risk than if they were in the City's name and in the future the City will work toward adopting a policy that gives better direction on investments. Endicott will present a proposed policy at the next meeting regarding the investment process.

MOVED by Baxter, SECOND by Moeller, to approve as written. AYE: Moeller, Haywood, Baxter, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin. NAY: None. MOTION CARRIED.

9. Consider approval of a Mutual Assistance Agreement between the City of Lawton and the Flower Mound Volunteer Fire Department, Inc. Exhibits: Mutual Assistance Agreement between the City of Lawton and the Flower Mound Volunteer Fire Department, Inc. Action: Approve agreement and authorize execution of agreement.
10. Consider approving an Agreement for the sale of treated water between the City of Lawton, Oklahoma and Curtis Giles, and authorize the Mayor and City Clerk to execute the document. Action: Approve and execute agreement.
11. Consider approving an Agreement for the sale of treated water between the City of Lawton, Oklahoma and Charles A. Benke, and authorize the Mayor and City Clerk to execute the document. Action: Approve and execute agreement.

12. Consider approving an Agreement for the sale of treated water between the City of Lawton, Oklahoma and Larry Benke and Linda Benke, and authorize the Mayor and City Clerk to execute the document. Action: Approve and execute agreement.
13. Consider approving an Agreement for the sale of treated water between the City of Lawton, Oklahoma and Tom Benke and Amanda Benke, and authorize the Mayor and City Clerk to execute the document. Action: Approve and execute agreement.
14. Consider approving an Agreement for the sale of treated water between the City of Lawton, Oklahoma and Charles A. Benke, and authorize the Mayor and City Clerk to execute the document. Action: Approve and execute agreement.
15. Consider approving the following contract extensions: A) Credit Card Acceptance Program with Bank of Oklahoma; B) Welding Gases with Airgas Midsouth. Exhibits: None. Action: Authorize extensions and execution of form.
16. Consider awarding contract for Degreaser. Exhibits: Recommendation and Abstract. Action: Award contract to Suncoast Research Labs, Inc as recommended.
17. Consider awarding contract for Flush Truck Hose. Exhibits: Recommendation and Abstract. Action: Award contract as recommended to Sewer Equipment Co.
18. Consider approval of payroll for the period of January 6 through 19, 2003. Action: Approval.
19. Consider approval of Minutes of December 17, 2002, and January 6, 2003, Council meetings. Action: Approve minutes.

UNFINISHED BUSINESS ITEM:

20. Consider establishing criteria for membership of the Boathouse Fee Committee and provide direction and composition. Exhibit: Survey Information. Pictures on file at the City Clerk's office.

Mayor Powell asked Kim Shahan, Parks and Recreation Director, and Council, how they recommended establishing this committee. Bass said Council tried to establish a committee and he did not see how a committee could be established without boathouse owners being on it. He asked the Mayor to designate a committee and inform the Council of his recommendation. Mayor Powell set a meeting for Wednesday, 10:00 a.m., to establish the Boathouse Fee Committee and said a memorandum would be distributed to Council on this committee membership.

Due to a large number of interested audience members, Items 34 and 35 were heard at this time.

34. Consider options available to the City upon expiration of the Lawton Boat Club lease at Lake Lawtonka and provide direction to staff of an appropriate course of action. Exhibits: Current Contract with the Lawton Boat Club at City Clerk's office for review, Lake front property potential if operated by the City of Lawton, Lawton Boat Club Presentation by the President.

Shahan said the lease will be approaching expiration March 16, 2003, and the property has been leased to the Lawton Boat Club for thirty years. This process was started in September to amend this lease to ensure City staff has camping operations in place prior to the spring. Based on the direction from legal counsel, two available options are: 1) the leased property would go out to bid to the public; or 2) return the property to the City of Lawton's Lakes Division to operate under its policy.

Shahan said in those thirty years the property has been taken care of by its lessee; however, this is not the issue regarding the goals of the Parks and Recreation Department. He requested Council direction to determine steps to take on this matter, whether it be step one or step two. Shahan said the recommendation of the Parks and Recreation Department and Lake and Land Commission is to put this item out for bid.

Shahan said during the Lakes and Land Commission's meeting a presentation was submitted to determine revenue possibilities within the department and this presentation showed a possible revenue of \$30,000 if operated by the City's Lakes Division. The position of the Lakes and Land Commission was for it to go back out to bid and a minimum bid amount be set at \$30,000. This position recognizes the fact that there needs to be an increase of the use on this property stating the prospective potential revenue if operated by the City is \$30,000, and this amount is not the expected lease amount, but only a potential of what the property could bring. Shahan said a proposed lease specification has been prepared if anyone wishes to review it adding this item is for direction on how to handle this particular lease.

Mayor Powell asked for clarification on the two options recommended by Shahan and asked why a third option was not available for the current lessee to renew or extend its lease, asking the status of the current lease. Shahan said the direction he received from the Legal Division was the only two options as written. Vincent said he did not recall discussing the City taking this property over, but Legal did advise pursuant to Section C4-4, Public Improvements, Lawton City Charter, this did need to go back out to bid as this contract has a value greater than \$2,000.

Ewing-Holmstrom asked Vincent if this was the provision the Council was to follow, how did this provision affect the renewal of the School House Slough lease and why was it not put out for public bid. Vincent said School House Slough was put out for bid in 1997 and that contract had options to renew. The current contract of the Lawton Boat Club has extended its renewal options, and this contract, as the Charter and Code reads, has to go out for bid upon expiration.

Devine asked Vincent if this lease went out to bid ten years ago. Vincent said he had no knowledge of the leases prior to that and said his office was asked a specific question, they researched and provided an answer. Devine said he felt the City was doing this group wrong by limiting the options as this group has had this lease for thirty years and has done the City well.

Moeller asked who the possible bidders would be on the use of this land. Shahan said his recommendation would be for any non-profit organization to submit a bid that would utilize the area for family recreation, camping and boating purposes, and the primary specifications for the Council to consider is what amount would be placed on the bid before it is submitted to the public.

Moeller expressed a desire to show a third option available on this contract and asked how many non-profit organizations would be able to submit a bid on this item who could take it over and run it as nicely as the Lawton Boat Club. She said the City has previously shown its management abilities which sometimes do not prove to be perfected, saying she would hate to see this shoreline littered with nothing but an RV park.

Ewing-Holmstrom asked why the Council had not been informed prior to this meeting of the possible recommendations regarding this lease saying she did not want to see this shoreline messed up and she thought the City was not giving this lessee a fair shake; the Lawton Boat Club had completed a lot of tasks in this area and she too did not want to see the area turned into an RV campground.

Moeller asked again what organizations Shahan was targeting when he stated a non-profit organization, 501C, could bid on this lease. Shahan said he was just presenting the item as it was presented to him and that there were only two options available saying again that his recommendation would be for it to go out for bid and whomever submitted a bid would have to be a non-profit organization. He said organizations such as Girl Scouts and Boy Scouts would fall under the category of a non-profit organization.

Hanna said if the City was to take over this lease, would there be a need to hire employees to operate the area. Shahan said this operation could be operated by an additional seasonal worker at a cost of \$6,000 to \$8,000 annually and this figure is already included in the \$30,000 amount.

Baker said he met with two Boat Club members on January 13, 2003, who expressed a desire to address Council and have their proposal reviewed. Baker suggested an additional option of putting this lease out on a Request for Proposal where the City could say the respective bidder would have to have been in business for a number of years and has current bylaws which would limit the possible bidders to those who are established boat clubs, and once the RFP was in, it would be submitted to Council for their review where they could decide whether or not the bids were acceptable. If acceptable, a contract could be entered into, if not, RFP's could be rejected and a different approach could be set forth.

Devine questioned the minimum annual bid of \$30,000. Baker said this amount would not be placed on the RFP. Devine felt this amount would eliminate a large number of organizations from bidding.

Bass asked Vincent since this lease has been in existence back to 1955, how many times has this lease been brought up for renewal. Vincent said the last time the lease was entered into was December 1992. Bass asked why this lease did not go out for bid then. Vincent said he was not here at that time and was not aware of the practices during that process.

Shanklin said about twelve years ago a gentleman from Oklahoma State University performed a study on the City's lakes showing we were close to our potential as far as the numbers who could use the lake at one time saying there would be a time we would have to let some out before more could be let in. Shanklin said this boat club has been there a long time and they've done a good job, their area is neat and clean and they want to increase their amount to pay for this contract and he was willing to accept their proposal. Bass said this was not an option to be considered by Council

MOVED by Devine, SECOND by Hanna, to re-agenda for the next meeting, that the policy be waived on going out for bid, to accept the proposal of the Lawton Boat Club.

Moeller expressed a desire to accept their proposal tonight. Vincent said the agenda is not written in a manner as a proposal and could not be voted on at this time. Mayor Powell said it would not be necessary to hear the presentation of the Lawton Boat Club as the Council is willing to renew their lease.

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

35. Consider renewing the lease at Lake Lawtonka with the Sunken Bridge Yacht Club for one (1) additional 5-year term or provide direction to staff on an appropriate course of action if lease is not renewed. Exhibits: Current contract with Sunken Bridge Yacht Club at the City Clerk's office for review, Sunken Bridge Yacht Club potential revenue if operated by the City of Lawton.

Shahan said the Sunken Bridge Yacht Club lease is up for one additional five-year term for the renewal. The Lakes and Land Commission and Shahan recommended renewal of this lease for the same ground rental rate as stated in the current lease of \$1,000 per year.

Baxter commented on the letter he received from Rita Smith, Sunken Bridge Yacht Club Secretary, and asked Shahan if she was in agreement with the recommendation he just made. Shahan said she would agree with his recommendation and the renewal would not affect any changes and would stay as it is written at this time

Moved by Devine, SECOND by Baxter, to accept the lease renewal.

Moeller asked Shahan if this club was offering an increase in the annual lease amount. Shahan said they were not offering an increase stating that he was offering them an opportunity of negotiations pertaining to camp usage.

Mayor Powell asked Kade McClure and Gena Ellis if they still wanted to speak pertaining to this item and they declined to speak.

Rita Smith spoke saying without taking a great risk she felt a slight increase was warranted saying the club should be able to give the City something and thought the club could go from a \$1,000 to possibly a \$3,000 annual membership fee in order to give back to the city but agreed to the current lease terms.

Kade McClure said he has lobbied with the other officers and some of them believe \$1,000 is acceptable to the Sunken Bridge Yacht Club; members are much happier with this proposal than the previous proposal.

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

Upon motion, second and roll call, the Council recessed at 7:00 p.m. and reconvened at 7:10 p.m. with roll call reflecting all members present.

BUSINESS ITEMS:

21. Hold a public hearing and consider an ordinance changing the zoning from R-3 (Multi-Family Dwelling District) and R-4 (High Density Apartment District) to R-2 (Two-Family Dwelling District) zoning classification located in the 1100 and 1200 blocks between Arlington Avenue and Ferris Avenue. Exhibits: Ordinance No. 03-____, Location Map, Section 18-703 Nonconforming Uses, CPC Minutes.

Bob Bigham, Assistant Planning Director, said this item is to hold a public hearing on a Council initiated down zoning which has gone through the statutory process. He pointed out on a map the area designated in the bold squares are zoned R-4 (High Density Residential Zoning) and the lighter designated area is zoned R-3; North Addition is zoned R-2 and in 1976 a large down zoning was completed. The original zoning classification of North Addition was R-4 (High Density Residential). There was a large petition to downsize this zoning to prevent further apartment dwellings from being developed. The action before the Council is to consider down zoning of the R-4 and R-3 area down to an R-2 or Two Family Dwelling District. When Council initiated this action, it was in two-parts. This is one part and the other is to downzone the lots along Fort Sill Boulevard between Euclid and Gore, the houses that face Fort Sill Boulevard, and the first row along Fort Sill Boulevard down to an R-1, most restrictive classification.

Bigham said on December 12, 2002, the CPC held public hearings on both of these actions; no one came forth to oppose. At the second public hearing on the down zoning to R-1, one individual questioned the Nonconforming Use Section of Chapter 18 of the Zoning Code which was discussed at the meeting and again at the Planning

Commission. This request was recommended for approval and the other was tabled. Planning's concern about the Nonconforming Use section is that if it is down zoned from R-4 to R-2 or to R-1, any nonconforming activity is grandfathered in. There are two provisions in Article 7, Chapter 18, Zoning Code, that talk about nonconformities or the grandfather clause. The Planning Commission has some concerns with two parts of this section of the code; 1.) if 60 percent or more of a nonconforming structure is destroyed by whatever cause, fire, tornado, whatever, it cannot be rebuilt unless it meets the requirements of that zoning classification, in this case R-2, and 2.) the code reads that if the use in that nonconforming building is discontinued, uninterrupted for a period greater than one year it cannot go back to be used as that same type structure.

Bigham said last week the Planning Commission held a public hearing on the R-1 down zoning and this was an extremely controversial subject. The Planning Commission by a 5-3 vote recommended approval. On December 12, 2002, public hearing was held where three persons spoke in favor and no one spoke in opposition. The Planning Commission by a 8 - 0 vote recommended approval of the down zoning to R-2. 113 notices were mailed to affected property owners in the requested area and 113 notices were mailed to property owners within the 300 foot notification area.

Hanna asked if these apartment owners lose these properties for whatever cause they are destroyed, they are out that money and they can't put them back. Bigham said the buildings could be put back if it conforms to the district regulation being, with a residence in the main structure on the street side, and if the apartment was destroyed more than 60 percent, they could only build back a duplex, they could not build back two separate dwelling units, and it would have to be an attached building. Bigham said there is another provision in R-2 that would allow the apartment to be built back if it was destroyed saying you can have a garage which would be a permitted activity in R-2 where the structures were separate.

Moeller asked if this rezoning would interfere with the three vacant apartments and with what the owner is doing at this time. Bigham said the grandfather clause goes with the land regardless of ownership; these apartments were not abandoned and they weren't converted to something else.

Hanna asked if a property is completely destroyed then the owners can't put those buildings back there. Bigham said this was a generic example and if there was a single family house on the front side and several small apartments attached or detached next to the alley, if any of the those were destroyed more than 60 percent, a building permit could not be issued unless it conformed to the R-2 district zoning regulations.

Shanklin had a question with the map. Bigham further explained the area in the zoning matter saying the property on the east side goes back to the alley; the area with slash marks is only the 300 foot notice area.

Shanklin stated he was concerned about items 2 and 4 in Section 18 of the Code, Nonconforming Uses, and suggested this item be tabled and sent back to the Planning Commission for further clarification and possible rewording so property owners would be able to build back in case of a disaster adding he didn't want to see anyone lose their rights to rebuild on their property. Shanklin said this type of zoning is to deter business districts from imposing on housing districts and that the City is trying to preserve and cleanup this area, keeping Fort Sill Boulevard in good shape and trying to keep it from going commercial. Bigham said viable points had been presented, saying the current Nonconforming guidelines are used on all the zones.

MOVED by Shanklin, to table this item and bring it back the second week of April.

Moeller agreed with tabling this item and expressed concern about property value in comparison with two structures on the property which were held on a loan, saying if one structure has been damaged beyond code restrictions and not replaced, the property value becomes less than the amount of the loan.

SECOND by Haywood. VOTE ON MOTION: AYE: Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin, Moeller, Haywood, Baxter. NAY: None. MOTION CARRIED.

Mayor Powell announced to the audience due to the tabling of this item there would be no public hearing, but when the item is brought back, a public hearing would be held.

Shanklin voiced concern for property owners that a public hearing was not opened and welcomed calls from anyone who had a concern to call him by telephone, saying he would be happy to hear and voice their concerns to the CPC.

Baker requested clarification on the motion and asked Shanklin if he desired for this part of the code to be sent to CPC for a consideration on amending Section 18, Nonconforming Uses. Shanklin said that was his motion.

22. Hold a public hearing and consider an ordinance changing the zoning from Temporary A-1 (General Agricultural District) to C-3 (Planned Community Shopping Center District) zoning classification on property located at the northwest corner of NW 82nd Street and Quanah Parker Trailway. Exhibits: Ordinance No. 03-01

Location Map, Site Plan, Application, CPC Minutes.

Bigham said this is a request for a 10.109 acre tract located at the northwest corner of NW 82nd Street and Quanah Parker Trailway. The applicant is Jim Sutton. The proposed use of this tract is a new car dealership which is a permitted use in C-3. The zoning of the surrounding area is Temporary A-1 to the north, south, and west and C-1 (Local Commercial District) to the east. The land use of the surrounding area is vacant to the north, south, and west and First Assembly of God Church to the east. This property was annexed into the city limits on July 23, 2002. The 2025 Land Use Plan addressed only land located in the city limits at the time it was prepared so this property is not included in the 2025 Land Use Plan.

Bigham said the CPC held a public hearing on December 12, 2002, on this request and one person spoke in favor. The CPC, by a vote of 8 - 0, recommended approval of the request. Notice of this public hearing was mailed on December 23, 2002 to six property owners within 300 feet of the requested area and proper notice was published in *The Lawton Constitution* on December 29, 2002. No calls or letter either for or against the request have been received.

Bigham said staff reviewed the site plan submitted with the application. Quanah Parker Trailway and NW 82nd Street are designated as US 62. Quanah Parker Trailway is a limited access highway under the control of the Oklahoma Department of Transportation (ODOT). Proposed drives would have to be coordinated with ODOT in addition to the standard requirement for an ODOT driveway agreement required for construction of a driveway on US 62, being the same as NW 82nd Street. The proposed parking along the west side of NW 82nd Street shown to be located within the street right-of-way must be deleted. There is an existing 12-inch water line along the west side of NW 82nd Street. A 10-inch sanitary sewerline is currently being proposed along the north side of Quanah Parker Trailway.

Public Hearing Opened: No one appeared to speak and the public hearing was closed.

MOVED by Moeller, SECOND by Haywood, to approve the zoning to C-3 in this area.

(Title read aloud) Ordinance No. 03-01

An Ordinance changing the zoning classification from the existing classification of Temporary A-1 (General Agricultural District) to C-3 (Planned Community Shopping Center District) zoning classification on the tract of land which is hereinafter more particularly described in Section One (1) hereof; authorizing changes to be made upon the official zoning map in accordance with this ordinance.

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

23. Hold a public hearing and consider an ordinance changing the zoning from Temporary A-1 (General Agricultural District) to C-5 (General Commercial District) zoning classification located at the southwest corner of NW 82nd Street and Rogers Lane. Exhibits: Ordinance No. 03-___, (request), Ordinance No. 03-___ (CPC recommendation), Location Map, Site Plan, Application, CPC Minutes.

Bigham said this request is for a 63.24 acre tract located at the southwest corner of NW 82nd Street and Rogers Lane. The applicant is Jim Sutton. There are no proposed uses identified for this tract. The zoning of the surrounding area is Temporary A-1 to the south and west and C-5, (Planned Community Shopping Center District), R-4 (High Density Apartment District) and R-1 (Single-Family Dwelling District) to the east. The land to the north is outside the city limits (Fort Sill Military Reservation). The land use of the surrounding area is vacant to the south and west and solid waste/trash container business, apartments, single-family residential, and park to the east. This property was annexed into the city limits on July 23, 2002. As staff prepared the service plan as required by state law to be attached we did make a provision where staff would study and provide recommendation to the CPC and Council for an added amendment to the Land Use Plan to provide guidance for policy on land use. This has not been completed as of yet, so the applicant applied for zoning prior to a Land Use Plan change.

Bigham said the CPC held a public hearing on December 12, 2002, on this request; two persons spoke in favor and six persons spoke against the request. The CPC, by a vote of 6 - 2, recommended approval of C-3 (Planned Community Shopping Center District) zoning rather than the requested C-5 zoning which is generally for retail sales districts, to include open display, entertainment establishments, and those types; C-3 zoning is for planned community shopping centers such as Wal-Mart, K-Mart, and would be more compatible with the single-family residential area to the east. The Council packet includes ordinance for both C-5 and C-3 zoning.

Notice of public hearing was mailed on December 23, 2002, to 20 property owners within 300 feet of the requested area and proper notice was published in *The Lawton Constitution* on December 29, 2002.

Bigham said staff has reviewed the site plan submitted with the application. Quanah Parker Trailway and NW 82nd Street are designated as US 62. Quanah Parker Trailway is a limited access highway under the control of the Oklahoma Department of Transportation (ODOT). Proposed drives would have to be coordinated with ODOT in addition to the standard requirement for an ODOT driveway agreement required for construction of a driveway on US 62 being the same

as NW 82nd Street. The site plan does not indicate any proposed drives on Rogers Lane. There is an existing 12-inch waterline along the west side of NW 82nd Street. A 10-inch sanitary sewerline is currently being proposed along the north side of Quanah Parker Trailway. There are no used identified for this 63.24 acres; therefore, it is premature to rezone the land without knowing what zoning would be required. Staff does not recommend rezoning 63.24 acres to C-5 zoning when it is unknown that C-5 zoning is needed for future uses, there is a sufficient amount of C-5 zoning in Lawton to meet the needs of the population for the next several years, and it would not be in conformance with the Neighborhood Unit Concept of the 2025 Land Use Plan.

Public Hearing Open

Max Rowlett, 7829 NW Morrocco Street, expressed opposition to the requested rezoning of Item 23 of C-5 (General Commercial District), but would agree with the rezoning recommendation of the CPC to C-3 (Planned Community Shopping Center District) stating a C-3 zone is more restrictive on the types of businesses which would be allowed in the area.

Rachel Gordon, 2614 NW 81st Street, said she was concerned about the zoning change recommended on Item 23 and requested it be changed to the CPC recommendation of C-3 (Planned Community Shopping Center District) rather than the requested C-5 (General Commercial District).

Shirley Johnson, 2612 NW 81st Street, said she preferred C-3 (Planned Community Shopping Center District) as a more restrictive zoning for businesses being established in the area.

Baxter asked Vincent if adult entertainment was even allowed in the city limits. Vincent said the zoning code is required under Federal Law to allow adult entertainment in certain zoning districts and the City Council chose the C-5 area and the Industrial Districts as appropriate districts saying those businesses could not all be industrial; however, there are spacing requirements specifying certain distances from churches, schools, and residential areas.

Charles Chaffins, 7832 NW Morrocco said the C-3 (Planned Community Shopping Center District) is more compatible with the existing neighborhood adding that the park, which was built by the homeowners, was a very nice park and the C-5 (General Commercial District) zoning would diminish its importance in the established community.

Public Hearing Closed.

MOVED by Moeller, SECOND by Haywood, to approve the recommended C-3 rezoning.

(Title read aloud) Ordinance No. 03-02

An Ordinance changing the zoning classification from the existing classification of Temporary A-1 (General Agricultural District) to C-3 (Planned Community Shopping Center District) zoning classification on the tract of land which is hereinafter more particularly described in Section One (1) hereof; authorizing changes to be made upon the official zoning map in accordance with this ordinance.

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

24. Hold a public hearing and consider an ordinance amending the Lawton City Code to allow helistops as a use permitted on review in all zoning districts with the exception of R-1 (Single-Family Dwelling District), R-2 (Two-Family Dwelling District), R-3 (Multiple-Family Dwelling District), and R-4 (High Density Apartment District). Exhibits: Ordinance No. 03-____, and CPC Minutes.

Bigham said this was an action to amend Chapter 18 of the Zoning Code and to hold a public hearing on a request to install a private heliport on an industrial tract. The City Code does not allow heliports but does allow for temporary landing sites for parades. The proposed ordinance would allow helistops as a use permitted on review in all zoning districts except R-1, 2, 3, and 4. Documentation of FAA approval of the helistop would be required upon the submittal with the Use Permitted on Review application. Helistops differ from heliports in that helistops do not include operations facilities, i.e., maintenance, fueling. The FAA regulations are basically the same for helistops as heliports.

The City Planning Commission (CPC) held a public hearing on the proposed ordinance on December 12, 2002; one person spoke in favor of the ordinance. The CPC, by a vote of 7 - 0, recommended approval of the ordinance. Recommended language addition has been placed on page 94 of the agenda. Bigham said helistops can go in any zoning district, with the exception of the residential district, and go through the uses permitted on review process, whereby the CPC holds a public hearing, reviews a site plan for that activity and the CPC has the final action unless it is appealed to the Council adding that prior to an application being submitted to the City, the applicant has to meet the FAA guidelines.

Moeller asked where a helicopter could be refueled in case of an emergency, which this ordinance does not allow. Bigam said heliports allowed for maintenance and refueling, but the proposed ordinance would only allow for a stop and emergency landings would have to be done at the Lawton Airport.

Public Hearing Open. No one appeared to speak and the public hearing was closed.

MOVED by Devine, SECOND by Haywood, to approve Ordinance No. 03-03.

(Title read aloud) Ordinance No. 03-03

An Ordinance pertaining to planning and zoning amending Section 18-1-1-106, Article 1, Chapter 18, Lawton City Code, 1995, adding the definition of Helistop and creating Section 18-4-1-412, Article 4, Chapter 18, 1995, establishing regulations for Helistops and providing for renumbering, codification, and severability.

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

25. Hold public hearings and adopt resolutions declaring the structures at 1207 SW B Ave; 1317 NW Kingsbury Ave; 7403 W Gore Blvd; 2118 NW Dearborn Ave; 2120 Dearborn Ave; and 1316 SW Oklahoma Ave to be dilapidated and dangerous, thus causing a blighting influence on the community and detrimental to the public's health and safety. Authorize the City Attorney to initiate legal action declaring a public nuisance in District Court and Neighborhood Services to solicit bids to raze and remove structures, if appropriate. Exhibits: Resolutions No. 02-___, No. 02___, No. 02-___, No. 02___, No. 02-___, No. 02-___ .

Alltizer updated Council on the program's efforts since April 2001, as follows: 109 properties brought to Council; 16 structures being remodeled; 27 turned to City Attorney for litigation in District Court; 31 properties demolished by property owners; 15 demolished by Neighborhood Services using City funds; 4 demolished using Community Development Block Grant Funds; and 2 structures are still pending fire training exercises. Fifty-Three percent of structures have been razed and removed or remodeled and removed from the list. Alltizer expressed her gratitude for Council's support in this endeavor.

1207 SW B Avenue: Alltizer said this was a single residential structure needing roof repair and exterior maintenance. Utility service and occupancy is current at this time. This property is being presented to Council because the requested repairs have not been completed and asking Council's direction.

Ewing-Holmstrom stated she visited this house and spoke with the neighbors. Alltizer said the occupant has been renting this property since October 2002. Moeller asked if the property owner had been notified of the actions needing to be completed. Alltizer said the division has had communication with the owner but action had not been completed by the owner.

Public Hearing Open:

Liliane Taylor, 1205 SW Maple Place, Broken Arrow, Oklahoma, is owner of the property, which her mother has been managing for about two years. She lived at this property for five years and then rented it. The last renter had to be evicted in October 2002. She received notification that the property was not being taken care of as required by the City Code, and upon eviction began the process of completing the necessary requests of the City and has recently obtained a new tenant. She will continue the process of completing the requirements of Neighborhood Services.

Ewing-Holmstrom said she was concerned with this property setting between two beautiful homes. The outside of this property needs manicured and the roof needs to be completed. Taylor said the roof will be replaced in or about April saying the money is available.

Public Hearing Closed.

Shanklin asked who was the proper owner saying if the Council wanted action, they would have to place it on D and D and give the property owner a chance to bring the items up to code in an effort to get the property removed from the D and D list adding the gas had been disconnected for some time. Shanklin suggested the property be left on D and D and said the property owner would have to do something in an effort to get it off of D and D saying the Council would work with them.

MOVED by Shanklin, SECOND by Bass, to adopt Resolution 03-07 to leave this property on D and D. AYE: Shanklin, Moeller, Haywood, Baxter, Bass, Hanna, Devine. NAY: Ewing-Holmstrom. MOTION CARRIED.

Mayor stated to Alltizer to ensure the correctness of property owner information so her office could be in contact with them at all times.

1317 NW Kingsbury Avenue: Altizer said the accessory structure of the attached two car garage is the matter that brought this to our attention, but upon inspection, it was determined to bring the entire property before Council saying the garage is unsecured, the actual house exterior needs some work; however, the house is structurally sound, saying the inspector was only able to complete an exterior inspection. Contact with the owner has not been made and utilities were terminated in March 2001. This property is listed in the names of Robert F. Jr., and Kimberly Howe, Lawton, OK 73507-4047

Public Hearing Open. No one appeared to speak and the public hearing was closed.

MOVED by Hanna, SECOND by Baxter, to adopt Resolution 03-08 to turn this property over to District Court for D and D action. AYE: Moeller, Haywood, Baxter, Bass, Hanna, Devine, Shanklin. NAY: Ewing-Holmstrom. MOTION CARRIED.

7403 W Gore Boulevard: Altizer said she had received a request from an attorney represented this property owner for this item to be tabled until the next meeting pending the sale of this property. Mayor said he had talked with this attorney who stated a plan of action is in the process to have this property brought back up to code. Moeller said this property was a nursing home.

MOVED by Moeller, SECOND by Baxter, to table this item until the next meeting. AYE: Haywood, Baxter, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin, Moeller. NAY: None. MOTION CARRIED.

2118 and 2120 NW Dearborn: Altizer said the two structures were brought to Neighborhood Services in March 2002. The structures needed exterior maintenance in the area of the roof, facial boards and painting. The property owner was contacted at which time he started making those improvements. 2118 NW Dearborn does have City utility service; however, 2120 does not have City utility service. These are both single residential structures. 2118 has a storage shed and is occupied, but 2120 is vacant.

Ewing-Holmstrom expressed concern that these structures were on the list for review. Altizer said there were structures in the community that did need more attention than others, but it was the request of Council for her to consider all D and D structures. Altizer said under item five of the division's guidelines, the division is to present structures to the Council for recommendation on whether these two structures constitute a public nuisance.

Ewing-Holmstrom said she visited this location and talked with the neighbors. She is concerned why these structures would be presented as D and D. Moeller agreed these houses were not D and D property saying she spoke with an insurance agent and these houses are insurable.

Shanklin said he had asked these to be brought to Council in August. One structure has not had water since 1985, which is a criteria of D and D. Shanklin said the permit for construction was obtained under false pretenses. The area is not zoned correctly for the uses on the property. Shanklin said Craig Williams is the property owner and this property is being used as a business; some work has been completed on the property since August, but the zoning is not correct. Shanklin asked Council if they were going to ignore the zoning requirements or will Council enforce the proper zoning. Shanklin says this is not considered to be a D and D, but it is to force the property owner to do what the Code requires.

Ewing-Holmstrom said the zoning matter was to be considered in a different avenue and not considered as a D and D structure.

Baxter commended Altizer for her previous presentations on D and D but said he could not declare these properties condemned on D and D. He said if this property had a zoning issue, it needed to be handled by the Planning Division. Baxter asked Altizer to give an explanation on these properties and why they were still on the D and D list. Altizer said six months ago these properties did qualify as D and D given the definitions as stated; however, today one does not qualify, but the other does because it does not have current City utilities.

Mayor Powell said there is an issue of rezoning but not an issue as D and D. Moeller said with this being a zoning issue, how are these matters handled by the City. Vincent said zoning code violations are a finable offense under the City Code if citations were issued. Shanklin said citations were issued. Vincent said citations would have to be issued by Community Services Division and not the Neighborhood Services Division.

Bass asked the proper clarification of why these sites were still on D and D. Shanklin reaffirmed that six months ago when he requested them to be placed on D and D, when they genuinely needed work; they were not placed on the list and Mr. Williams has completed some work necessary in an effort to bring these structures up to code.

Public Hearing Open.

Bob Schacher said he is the attorney representing the property owner on this matter saying some work has been accomplished in an effort to get these properties off of the D and D list, including that some new bisqueen had recently been placed on one of the out buildings, but that these out buildings have been on this property for many

years. Shanklin said this property needed to become legal for its intended uses.

Public Hearing Closed.

MOVED by Devine, SECOND by Ewing-Holmstrom to strike this item and bring back to CPC for proper rezoning.

Shanklin asked that the owner address the Council and the public hearing was reopened.

Craig Williams, 3014 NW Euclid, he, along with two sisters and a brother, are the property owners of the structures being discussed in this item adding that he purchased the properties five years ago from Amquest Bank and these properties belonged to the old American National Bank whom he worked for at that time. Williams said there was a greenhouse for years at 2120 NW Dearborn and that some new bisqueen was recently placed on this structure. Williams' attorney has a letter from a neighbor stating as same and said the utilities at 2120 were disconnected by the bank due to a sprinkler situation.

Public Hearing Closed.

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

1316 SW Oklahoma Avenue: Alltizer said this property is a single residential structure in a bad state of disrepair and has been vacant for approximately twelve years. This structures needs significant exterior maintenance to include roof repairs. City Utility service was terminated April 1990.

Public Hearing Open. No one appeared to speak and the public hearing was closed.

MOVED by Haywood, SECOND by Baxter, to adopt Resolution 03-09. AYE: Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin, Moeller, Haywood, Baxter. NAY: None. MOTION CARRIED.

Due to argument on previous issues, Mayor Powell read the following 1/8/03 letter aloud:

"Dear Councilmembers, I hope you are as concerned about the quality of our meetings as I am. Although the end results have been good in your decision in making process, the road was very rocky and ugly getting there. I have heard frequent criticism from citizens concerning the manner in which we conduct public business. We are often seen as unprofessional and rude. If I am not mistaken, and this is not news to you nor me, we were elected to represent 90,000 plus people in a professional manner. Our constituents expect nothing less. Some, if not all of the following, have made the road rocky and strained; using curse words on the Council floor, heated arguments and sometimes shouting at each other across the floor, personal attacks, interrupting other councilmembers, being rude and inconsiderate of each other, staff and citizens, not staying on the subject matter, asking a staff member to come to the podium to respond to a question some member will attempt to answer the question before the staff member has had an opportunity to answer, publicly harassing and embarrassing the staff.

It just seems to me that we could work professional with each other, debate issues in a calm, sane manner, and finally make an intelligent decision. Let's work together to improve our public image thereby serving our citizens more effectively. I wish each of you and your families a very health safe and prosperous 2003.

With Respect,
Cecil E. Powell, Mayor"

Mayor Powell said he had wished to keep this letter between himself and Council, but it seemed that this meeting was deteriorating, which was very unfair to the citizens and the chamber and it was his desire for each member to uphold the intent and requests of his letter.

26. Consider rescinding Resolution 02-223 condemning the structure at 1123 NW Ozmun Avenue. Exhibits: Resolution No. 02-___ and Letter from Scoggins Realty.

Alltizer distributed additional correspondence from the title holder of this property; which is a duplex that was presented to Council in December 2002 at which time she mentioned the property owner had made contact with the City saying they had a prospective buyer.

Hanna said this property has been sold with a condition the City lien will be paid and the title will be cleared on the time of closing on the sale of the property. Hanna told the prospective buyers this property would have to meet the city code or it would be placed on D and D again. Alltizer said the new owner has already applied for and received the required remodeling permit to bring this structure up to code.

Mayor said the recommendation is to approve the Resolution to rescind a previous resolution.

MOVED by Hanna, SECOND by Bass, to approve Resolution 03-10 to rescind a resolution of condemnation on the structure at 1123 NW Ozmun. AYE: Hanna, Devine, Shanklin, Moeller, Haywood, Bass. NAY: Ewing-Holmstrom. OUT: Baxter.

MOTION CARRIED

De-annexation matter was heard before the outside water request as follows:

32. Consider an ordinance detaching the Southeast quarter of Section 17, T1N, R12W from the municipal city limits and declaring an emergency as requested by Felton Dean. Exhibits: Letter of request, General location map and Ordinance No. 03-04 .

Bigham said this action was to consider an ordinance detaching a quarter section at the corner of Woodlawn Drive and 67th Street. This request was submitted by Felton Dean to facilitate a county subdivision and he currently has a golf course at this location. The ordinance also detaches a half of a mile of Woodlawn Drive to 67th Street. These legals do match with a previous detaching ordinance which is the west half of Section 17 located to the east of this property. Vincent said Item 27 is a companion item regarding this same property.

Felton Dean, 6102 Williams, said when this property was annexed into the City, the County declined to continue in its efforts and responsibilities. The City indicated funds are not available to provide the road on Woodlawn, but were going to take care of 67th through FEMA. Dean requested the entire amount from 67th to 82nd and from Woodlawn to Coombs be de-annexed. Vincent said on December 17, 2002, the City de-annexed the west half mile of Woodlawn and this ordinance picks up the east half mile to include detaching the entire mile.

MOVED by Haywood, SECOND by Bass, to adopt Ordinance 03-04.

(Title read loud) Ordinance No. 03-04

An Ordinance de-annexing from the City of Lawton, Oklahoma, the hereinafter designated area, thereby altering, diminishing and establishing the corporate limits of the City of Lawton, Oklahoma and declaring an emergency.

VOTE ON MOTION: AYE: Devine, Ewing-Holmstrom, Shanklin, Moeller, Haywood, Bass. NAY: None. OUT: Baxter, Hanna. MOTION CARRIED.

27. Consider approving the sale of water outside the city limits to D & G Water Association and authorize the Mayor and City Clerk to execute the agreement. Exhibit: Agreement is on file in the City Clerk's office.

Vincent said Felton Dean has formed the D & G Water Association, an Oklahoma Corporation, and requests the City provide 49 residential meters and a meter for the golf course club house. Mr. Dean's attorney, Mark Ashton had assured Vincent that Dean signed a contract agreeing to install a twelve inch line from the current end of the city line on SW 67th down to Coombs Road. This line will be built to City standards, the meter will be set on Coombs Road, then the line will be dedicated to the City.

Shanklin asked the requirements of the 12 inch line since the request was made for an 8 inch line. Vincent said the code requires a 12 inch line if the requested line is going to connect to an existing line and be placed in the City's right-of-way on a section line road. Shanklin voiced a concern that the City has agreed to give other entities a line smaller than a 12 inch.

Shanklin's second question is when would Mr. Dean get compensation when others tie onto his line. Vincent said the payback system of the code has been provided to Mr. Ashton and he was aware of filing an application prior to the construction of the line to have the Council approve this as a payback line. Shanklin voiced concern about the filing deadline of the payback system. Bigham said there has to be a plan of construction and an agreement and has to be established prior to the construction of the water line. Shanklin asked Bigham about the backcheck requirement for these new water line installations.

Mr. Dean said he is not opposed to a 12 inch line and he previously made a request to an existing water association to tie on to their line which was rejected so he had to make a request of the City for this water line. Dean said this 67th Street water line is not dedicated back to the City. Dean said he did not want to fund a 12 inch water line at the cost of \$148,465.00 plus and then later have others tie on to this line at no expense to them. Dean expects compensation from anyone who connects to the line which he had funded.

Mayor asked Vincent if a contract could be written in a manner whereby the D & G Water Association could be compensated for anyone tying onto this new water line. Vincent said the code only provides for a pro-rata share based on the development of the number people tying on and it does not provide for the difference in the 8 inch and the 12 inch line. Bigham read the code to say it was the difference between the size line needed and the size line required by the City, that would be the portion pro-rating back to him.

Bass asked the costs and fees of the dedication of this line back to the City. Bigham said the average cost of fees, etc. is approximately \$300.

Devine expressed concern to Mr. Dean that once he dedicates this line to the City, he may not be compensated as he might think fair. Vincent said during the negotiations of this water line contract, the City did not require Mr. Dean to get private easements because of the cost of constructing this line; however, the City is allowing him to use the 67th Street right-of-way. In a normal instance, the water line would have to be placed offset of the right-of-way.

Devine said he would hate to see this association spend that kind of money and be on shaky ground in the future. Vincent also said in the previous item, Item 32, the Cotton County Rural Water District did de-annex this property, but the Cotton County Board of Commissioners have not met to hear this de-annexation request, and will do so at its January 31, 2003, meeting. Approval of this item needs to be contingent upon Cotton County Board of Commissioner's approval of the de-annexation request.

Bass asked why Mr. Dean has to dedicate this line to the City. Vincent said this dedication was a negotiated item which allowed him to place the water line in the City's right-of-way rather than Mr. Dean having to purchase right-of-way from other property owners.

Haywood asked Vincent about the payback money situation. Vincent said there is a code requirement concerning instances such as this whereby an individual has to be out a great expense to run a water line, the payback system is an effort for the original payee to get reimbursed for a portion of the water line when another individual or water association connects to the line and there is a certain maximum the developer could receive.

MOVED by Haywood, SECOND by Bass, to approve an agreement for the sale of treated water between the City of Lawton and D & G Water Association and authorize the Mayor and City Clerk to execute this agreement with the contingency the Cotton County Commissioners approve the de-annexation.

Moeller asked about the \$300 fee for the review of the plans. Bigham said there is a provision in the code, Chapter 21, Subdivision Regulations, Offsite Infrastructure and this is the procedure the City will use to have him apply to build this line, review the plans and the dedication process; this fee is similar to a subdivision fee to recover some administrative costs and reimburse the City for staff time of reviewing plans, etc.

Baxter asked if the motion includes an 8 inch line or a 12 inch line. Vincent said the code reads a section line extension has to be 12 inches saying if Mr. Dean did not wish to place this line in the section line right-of-way he could run an 8 inch line, but part of the negotiation process was to place this line in the section line right-of-way. Mr. Dean has approached property owners in the area and some owners are not willing to sell him the easement.

Mr. Dean said he was clear and in agreement on the City's requirement of the placement of the 12" water line and said his only concern was that he be compensated if anyone is allowed to tie onto this line at anytime in the future.

Shanklin asked who agreed to allow the placement of the water line in the City's right-of-way. Vincent said he negotiated this, subject to Council's approval, and is now presenting it to Council for discussion and direction.

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

28. Consider adopting Ordinance Number 05, pertaining to nuisances, amending Section 15-1-101 10. and Section 15-1-111 A. 4.; amending the minimum height of limbs projecting over a public street and enacting an emergency clause. Exhibit Ordinance Number 2003-05.

Deborah Jones, Planning Division, said the current code provides that tree limbs projecting over streets have a minimum height requirement of ten feet. Packer trucks are thirteen feet high, street sweepers are eleven feet high, and the LATS buses are ten feet high. It is our recommendation that the code be amended to read a maximum height of fourteen feet. This would allow the City to give notice to property owners to trim their trees that extend over the street and if they did not do so, the City could trim the tree and later recover that cost through the lien process. Mayor said this is for streets and not alleys. Jones said that alleys are considered the same as streets but it does not include sidewalks.

MOVED by Baxter, SECOND by Devine, to adopt Ordinance No 03-05

Shanklin stated this effort is being taken for the bus routes, not necessarily for the city's equipment and said he hated for this burden to be placed on the elderly who are on a fixed income.

Moeller agreed and said these trees are in the easement and the City should provide adequate notification to allow the property owners ample time to remove the trees.

Bass said the current code states a ten foot height and this ordinance would only increase that amount by four feet.

Shanklin said the ten foot requirement has not been enforced, but fears this particular increase would be enforced more rigorously.

Devine withdrew his second and voiced a substitute motion.

SUBSTITUTE MOTION by Devine, SECOND by Shanklin, to adopt Ordinance No. 03-05 with the stipulation the City absorbs the cost of cutting and removing these limbs.

Hanna said the City is currently \$2.7 million short and asked where the money will come from to get these limbs removed. Baker said this ordinance has not been enforced in the past due to the lack of funds, inspectors, staff, and expertise and the fourteen feet restriction will not be enforced any more than the ten foot has been enforced, but added making this change would improve the situation. Shanklin stated there are low hanging limbs all over the city and this burden will be placed on the citizens and not the city.

(Title read aloud) Ordinance No. 03-05

An Ordinance pertaining to public nuisance amending Sections 15-1-101A.10, and 15-111A.4, Article 1, Chapter 15, Lawton City Code, 1995, amending minimum height of tree limbs projecting over a public street; providing for severability; and declaring an emergency.

VOTE ON SUBSTITUTE MOTION: AYE: Devine, Shanklin, Moeller, Haywood, Bass, Hanna. NAY: Ewing-Holmstrom, Baxter. MOTION CARRIED.

29. Consider entering into an agreement with Lawton Board of Education of Independent School District #8 to retrofit certain public schools against high winds under the Project Impact Grant. Exhibits: None. Agreement and Request for Proposal on file at City Clerk's office.

Bigham said this agreement is with the Lawton Public Schools to set out the terms whereby the school board will bid and front the cost for a window safety film project on eight schools of the cost not to exceed \$125,000.00 and after the expenditure has been made, the school will file a claim with the City, which will in turn be filed with FEMA for a seventy-five percent reimbursement back to the school. Bigham reaffirmed the \$25,000.00 donation from the Lawton Independent Insurance Association which will almost cover the twenty-five percent city match for this project.

MOVED by Shanklin, SECOND by Hanna to approve agreement with the Board of Education for the public school retrofitting project under the Project Impact Program. AYE: Shanklin, Moeller, Haywood, Baxter, Bass, Hanna, Devine. NAY: None. OUT: Ewing-Holmstrom. MOTION CARRIED.

30. Consider awarding a construction contract for the Ft. Sill Boulevard Fencing Project #2003-3. Exhibits: None.

Ihler said at the Council meeting of December 17, 2002, plans and specifications were approved to allow staff to solicit bids for the median fence project to control access points for pedestrian traffic coming and going into the new Central Junior High. In order to expedite this project the item was presented before hand knowing that bids would be opened before this Council meeting. Ihler said bids were opened as appropriate and provided each a copy of what was received and opened.

The apparent low bidder, in our opinion as well as the City Attorney's office, is considered to be non-responsive. The second page of the submittal required the unit price bid but was submitted by the vendor as a total amount bid and the guidelines were not followed in submitting this bid making the low bid non-responsive, so therefore it is recommended the award of the contract be given to the next low bidder, RCJ Construction, Inc., Lawton, Oklahoma in the amount of \$44,911.70.

Authorization provided in the previous meeting was the amount of \$50,000.00 with the funding source being the 2000 CIP Economic Development

Baxter asked for clarification on the completion process requirement of completing bid information and asked if it was feasible to pay in excess of \$11,000.00 due to an incomplete form. Ihler said the contract was solicited as a unit price contract and this vendor only provided estimates of the unit prices requested. Payments of this type are paid on the actual amounts of fencing and concrete put in on this project. The vendor was contacted and asked why the form was not properly completed and he stated he was in a hurry and didn't have time to properly complete the form adding the vendor did put up a bid bond on this project.

Bass asked Ihler if it would not be in the best interest of the City to find out the intent of this vendor. Ihler said this vendor did not attend the pre-bid conference where Flasher Company, who provides traffic control, indicated they would be looking at a cost of \$150.00 per day for their services. The vendor was asked if all of these matters had been considered before submitting his bid. The vendor indicated he had not taken traffic control into consideration

before placing his bid.

MOVED by Haywood, SECOND by Hanna to award the contract to the lowest responsive bidder, RCJ Construction, Inc., Lawton, Oklahoma, in the amount of \$44,911.70. AYE: Shanklin, Moeller, Haywood, Hanna, Devine. NAY: Baxter, Bass, Ewing-Holmstrom. MOTION CARRIED

31. Consider authorizing the Mayor to sign and execute the DEQ Consent Order, Case No. 02-397 for the new Phase I completion schedule based on weather days and a proposed Phase II schedule for the Citywide Sewer Rehabilitation Program. Exhibits: None. Consent Order, Case No. 02-397, on file at the City Clerk's office.

Ihler said in 1991 the City received a consent order from DEQ/EPA regarding the sanitary sewer overflows the city had in the wastewater collection system. As a result, a consent order was issued stating the City had to complete a sanitary sewer evaluation study which identified lines within the city that needed to be repaired and the estimated cost in 1996 was approximately \$63 million dollars. The city negotiated a schedule and program to accomplish those required tasks at which time a three-phase project was agreed upon with each phase being a seven year project and the consent order for phase one of that program was received in 1997. Part of the agreement on the consent order was for the City to provide a schedule for phase two of the program by January 2003.

Ihler said phase one covered the Squaw Creek basin, phase two covered the Wolf Creek basin, and phase three covered the East Cache Creek basin and the schedule can be seen on the overhead and the revision being that the completion of phase one was originally scheduled for October 2004. The City started late because of bad weather days and the decision to complete the task in-house which caused the program to start one and a half years behind schedule. In order to accomplish phase one, DEQ agreed to revise the original schedule until July 2005 and the flow monitoring was revised from January 2005 to January 2006 of phase one.

Ihler stated in Section B, phase 2 collection system, we provided the schedule for the phase 2 program that covers the Wolf Creek basin which is a seven year program and DEQ has also approved our requested schedule. The City has thirty days for the Mayor to execute the contract and send it back to DEQ.

MOVED by Bass, SECOND by Moeller, to approve the consent order. AYE: Moeller, Haywood, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin. NAY: None. OUT: Baxter. MOTION CARRIED.

MOVED by Shanklin, SECOND by Baxter to reconsider the vote on Item 30 and award contract to lowest bidder. AYE: Haywood, Baxter, Bass, Hanna, Devine Ewing-Holmstrom, Shanklin Moeller. NAY; NONE MOTION CARRIED.

Shanklin asked Jerry Ihler to contact the lowest bidder in an effort for the City to save \$11,000. Ihler said when this contractor was called this afternoon he indicated that he may have overlooked the traffic control needs required by this contract saying this was a negotiable item and the bid is \$33,500 and if this contractor missed the traffic control requirements, that is his problem and not the city's and if he chooses not to go forward, the City can keep his bid bond.

Moeller suggested if this contractor wants to proceed the city should have him fill in the unit prices and the bid be accepted and that he will have to provide traffic control; however, if the bid is awarded to him, he does have the option to withdraw his bid.

Ihler said as the drawings are set out with the quantities, the contractor will have to complete all of those items for a lump sum fee of \$33,500 saying if the City has ten additional feet of fence to set, the contractor generally wants to negotiate additional monies for that fence. Ihler added, based on the amount he bid, this contractor would be expected to complete the entire project for the amount bid. Moeller asked if this contract is awarded to the low bidder, does the bidder have option to withdraw his bid. Ihler said in the past contractors have withdrawn and the City has kept their bid bond.

Vincent said 1.) the bid bond would be retained by the City and 2.) Council would have to decide whether to let this contractor out of the contract after which the City would be required to go out for bids on this project again, saying the City could not award to the second low bidder at that point adding once a contractor has been selected, rejection letters are sent to those bidders who were not selected and backup bids are not acceptable the way this public construction contract is written.

Baxter stated the contractor will be forfeiting a \$1,600 bond if he chooses not to follow through with his bid. Shanklin asked if this contract was let as an emergency. Ihler said it was not written as an emergency.

Moved by Bass, Second by Baxter to award contract to low bidder, Bordwine Construction, Chickasha OK in the amount of \$33,500. AYE: Baxter, Bass, Hanna, Shanklin, Moeller. NAY: Devine, Ewing-Holmstrom, Haywood. MOTION CARRIED.

33. Consider a request from Darrell Dawkins for the sale of treated water to service a proposed residential

subdivision at approximately NE 75th Street and Cache Road and provide direction to staff. Exhibits: Location Map and Council Policy 5-2.

Vincent said a request was received from Darrell Dawkins to develop a subdivision shown on the map on page 118 in the hashed area at which time Dawkins expressed a desire to enter into an outside water contract at this location saying this item is proposed to Council since it is adjacent to the area recently rejected for the East 75th Street water association.

Shanklin requested clarification on the map as provided in the packet. Shanklin said an effort was going to have to be made eventually in evening up the east and west sides and asked if the gentleman whom the Council turned down prior to this meeting was included in this water association.

Baxter asked what the other water associations were in this particular area and asked if this was not the area where Council recently declined the addition of new water meters. Vincent said the East 75th Water Association and the Murray Water Association are in this area and the East 75th Water Association is on the addendum requesting three additional meters to serve property owners and houses in the area.

Shanklin said this property owner has stated this subdivision will be established by current city code. Bass asked Vincent how the city would be able to make sure all things would be done by code since the City has no jurisdiction in this area. Vincent said the water would have to be put in by code, or the meter would be pulled and water would be discontinued.

Mayor asked Dawkins to come to the podium for explanation. Dawkins stated his engineers, Hightower and Associates, are reviewing the current city codes pertaining to water and streets saying the water issue is being examined more thoroughly at this time but not necessarily the streets saying the streets would be a negotiable item that could be discussed.

Divine said that Dawkins could stipulate restrictions as a developer having major control of what is constructed and how construction is completed adding that Dawkins is currently living at this subdivision.

Shanklin said annexation would be done in this area in the future saying if the City allows this development to go in without asphalt roads the City would only be defeating its purposes. Ewing-Holmstrom expressed concerns with other areas that have recently been annexed into the city limits and now the roads in these areas are completely deteriorated and have become the City's responsibility to make them passable. Mayor said one way of addressing this issue is to accept the area in its current state and never make it any better asking Mr. Mitchell to elaborate on the issue. Larry Mitchell, Assistant City Manager, said the Council could negotiate with the owner establishing some time requirements to meet city regulations saying it would be a mistake to allow the extension of water into areas that are not annexed into the city without a condition on the requirement that the area meet city code.

Bass said he had no problem with the request if the property owner desires to develop this area as to the current city code. Baxter said according to the request and the statement Dawkins just made, this area is going to be developed by city code which would require asphalt streets and not gravel roads.

Vincent recommended this item be tabled for two weeks and allow city staff to meet with other parties involved to gather all facts and information.

MOVED by Shanklin, SECOND by Baxter, to table this item until further information can be obtained and provided. AYE: Shanklin, Moeller, Haywood, Baxter, Bass, Hanna, Devine, Ewing-Holmstrom. NAY: None. MOTION CARRIED.

SECOND ADDENDUM TO AGENDA

1. Consider waiving Council Rule of Procedure 5E and if approved consider approving the Third Amendment to the Agreement for Sale of Treated Water between the City of Lawton and the East 75th Street Water Association, and authorize the Mayor and City Clerk to execute the agreement. Exhibits: Third Amendment of Agreement for Sale of Treated Water on file at the City Clerk's office.

MOVED by Devine, SECOND by Baxter to waive council procedure. AYE: Moeller, Haywood Baxter Bass, Devine, Ewing-Holmstrom, Shanklin. NAY: Hanna. MOTION CARRIED.

Devine said he had erred because he did not understand everything that was voted on when this was presented to council earlier saying he is not asking for eight additional meters but he is only asking for three meters because two people were of the understanding that if this East 75th Water Association would upgrade their system by moving their meters away from the tower and increase the size of their line from a two inch to a three inch the association would be allowed to increase from 17 to 25 meters. Devine said during the negotiations some of these requests fell by the way side while two people constructed new homes in this subdivision under the understanding they were going to get a water meter; now these people are there with new homes and no water meter; adding another person had to move out of a home

because a county water meter was removed during a family discussion. Devine requested to allow this water association three additional meters to accommodate three homes that are currently without water.

MOVED by Devine, SECOND by Shanklin, to allow the East 75th Street Water Association three additional meters to serve three houses.

Helen Sample, 4629 SE Caber Circle, said Mrs. Caldwell advertised her property for sale and she was interested in purchasing it, but would not buy the property without City water. Devine said this meter would be the third meter requested. Ewing-Holmstrom stated she was really concerned that people were purchasing property without water being available to the area of development.

VOTE ON MOTION: AYE: Haywood, Baxter, Bass, Devine, Ewing-Holmstrom, Shanklin, Moeller. NAY: None. OUT: Hanna. MOTION CARRIED.

2. Consider approving the purchase of a temporary easement on a parcel of land for the Flower Mound Road (Lee - Gore) Project, and authorize the Mayor and City Clerk to execute the Temporary Utility Easement and authorize payment for the same. Exhibits: Temporary Utility Easement is on file in the City Clerk's office.

Vincent said this purchase was the last of the properties on the Flowermound Road Project and this property is located across the street from the VA Center at the Carriage House Apartments saying the appraised amount was \$530 and the agreed amount was \$1,000; this last approval is needed because construction has been started.

MOVED by Bass, SECOND by Shanklin, to approve purchase of temporary easement. AYE: Baxter, Bass, Devine, Ewing-Holmstrom, Shanklin, Moeller Haywood NAY: None. OUT: Hanna. MOTION CARRIED.

3. Consider adopting Ordinance Number 03-___, pertaining to camping and boathouse regulations, amending Section 111, Article 1, Chapter 19, by prohibiting use of camping site or space as the occupant's place of permanent residence and amending Section 508, Article 5, Chapter 19, Lawton City Code, 1995, by establishing a charge to be included in the schedule of fees and charges for failure to maintain the bank, grass and control weeds in the area adjacent to boathouse spaces and dock units; clarifying when payment of the charge is due; providing for severability, and effective date. Exhibits: Ordinance Number 03-___, Seasonal Camping Agreement and Boathouse Space Agreement.

Shahan said in the past the city has had no ordinance restricting camp sites as a permanent place of residence and this ordinance would require a seasonal camp site tenant to provide proof of permanent residency other than the seasonal camp site saying this ordinance would also limit the electrical appliances from being placed outside the living structure and would also establish a fee to be charged for failure to maintain the bank, grass and weeds in any areas adjacent to boathouse spaces and units and clarifying when the payment is due by the boathouse owner.

Haywood asked how many sites had appliances setting outside and Shahan said about 14.

Baxter said he remembered discussing this same situation a year or so back when two gentlemen distributed pictures of fish saying these freezers where needed as a place to keep their fish and said he remembered a lot of concerned citizens at that meeting.

Moeller asked if the store had the availability of a rental space for these campers to store their frozen goods.

Shahan said the store was leased to a concessionaire and it would be a decision of that lessee to provide such a service. Moeller asked the amount of footage is required by the renter of the space to be maintained. Shahan said the flat area is maintained by the City.

Bass asked the reason for the increase in the fine from \$200 to \$300. Shahan said the current fee is \$25 which he considered to be a service rather than a deterrent. Shahan said this ordinance has not been enforced as strictly but a process will be taken in an effort to clean up the lakes.

MOVED by Ewing-Holmstrom, SECOND by Moeller, to adopt Ordinance 03-06 and begin the cleanup process of this area.

Moeller said she received calls regarding the current boathouses and she is in agreement to get these areas cleaned up and concerned that the inspectors do not go out on a regular basis, and now the fees are being raised saying some citizens felt this approach to be harassment. Shahan said this was his first year as director and he was not aware the code had not be followed in the past but it was his approach to address the issues in the code pertaining to boathouses.

(Title read loud) Ordinance No. 03-06

An Ordinance pertaining to camping and boathouse regulations, amending Section 111, Article 1, Chapter 19, by prohibiting use of a camping site or space as the occupant's place of permanent residence and amending Section 508, Article 5, Chapter 19, Lawton City Code, 1995, by establishing a charge to be included in the schedule of fees

and charges for failure to maintain the bank, grass and control weeds in the areas adjacent to boathouse spaces and dock units; clarifying when payment of the charge is due; providing for severability, and an effective date.

Mayor said that credit should be given to Colonel Hawthorne who has initiated the desire to begin the process of this cleanup effort and the list he was working toward accomplishment prior to his resigning from the Lakes and Land Commission.

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

Moeller requested each of these campers and boathouse owners get notification of the City's expectations in an effort to allow them time to cleanup their sites saying she is not sure they are aware of the City's regulations.

Shahan said this was a new endeavor and an agreement form stating all of the applicable codes and the City's expectations had been prepared that each camper and boathouse owner will have to agree upon, sign and return to the City.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Colonel Steuber said he would be serving as Liaison for a period of time while Tony Pucket, as well as the first two units, were being deployed dependent upon the decision of the Commander and Chief of the US saying citizen's concern is genuine in the deployment of the soldiers of Fort Sill and the impact it will have on the Lawton-Fort Sill Community adding that Fort Sill provides a strong support network to family members left behind and they encourage everyone to stay in the area, their big home, since Fort Sill has support organizations to provide them while helping them through this time. Steuber said a poster child has been set up showing her support and encouragement to others to stay at Lawton-Fort Sill while her husband is deployed to Korea saying that she and her family are thriving while Fort Sill continues to be her big family and support group.

Steuber continued by saying another great thing during the deployment of the first two units, the soldiers departed this morning, but their equipment departed two weeks prior, leaving after having been loaded at the new strategic project, the rail yard, which allowed the loading of two times the capacity as had been done in the past. Steuber said phase two of this project has been completed and phase three is remaining saying this project will make Fort Sill one of the premier power projection platforms in the United States Army putting Fort Sill in action.

Steuber said the 5045 Garrison Support Unit Army Reserve has been mobilized and will report to Fort Sill in the next few weeks to help Fort Sill with any mission called upon by Fort Sill in the future which will be a one team effort and Fort Sill is proud to welcome them aboard.

Haywood reported the Annual Martin Luther King Program will be held at Great Plains Technology Center, Worley Building under the direction of Reverend Jones of the Cameron Baptist Student Center.

Shanklin said the information he gathered from all of the discussion concerning the lakes was that a Lake Ranger was needed to oversee and manage the lakes area.

Baxter said he heard from people at the lakes who reported the staff assigned to the area was not putting forth the necessary efforts to ensure proper management of the City's property. Baxter also wished a happy birthday to Alberta Wilcox.

Bass expressed gratitude to Mr. Glover for showing up at the meeting tonight and publicly expressed his thanks for Glover's assistance at the public meeting held at the LO Ranch arena earlier in the summer.

Ewing-Holmstrom expressed agreement with Shanklin regarding the operation of the lakes during the summer months saying that boat safety programs were needed and a better enforcement of the code was needed and said a program needed to be implemented to train staff to ensure a safe family environment at the lakes.

Hanna said he spent one Sunday at the lakes driving around and he was concerned there only being one police officer assigned to patrol the two lakes and all of the City's property. He also expressed gratitude for Zone 1 in the implementation of the Neighborhood Watch Program which was kicked off this week by the Mayor and Chief of Police along with other officers.

Baker announced that a thorough update of the City's financial condition would be presented at the next meeting; and that staff has started the budget preparation for the upcoming FY 03-04 budget. Baker said the sales tax for November was up 7.8 percent over the year before.

Curtis Giles from the audience asked if his item had been discussed or approved. Baker said his request was approved on the consent agenda.

BUSINESS ITEMS:

36. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss negotiations for a Collective Bargaining Agreement for FY 2003-2004 between the Police Union, IUPA, Local 24, and the City of Lawton, and take appropriate action in open session.

37. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss negotiations for a Collective Bargaining Agreement for FY 2003-2004 between the IAFF, Local 1882, and the City of Lawton, and take appropriate action in open session.

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

The Mayor and Council convened in executive session at 9:50 p.m. and reconvened in regular, open session at 10:05 p.m. with roll call reflecting all members present.

Vincent reported on Item 36 by reading the agenda item title and stating that executive session was held. He recommended that Council authorize by motion for staff or City Manager to notify IUPA that the negotiation process would begin between the City and IUPA, Local 24, Police Union, for FY03-04.

MOVED by Baxter, SECOND by Hanna, to authorize the City Manager to begin the negotiation process. AYE: Baxter, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin, Moeller, Haywood. NAY: None. MOTION CARRIED.

Vincent reported on Item 37 by reading the agenda item title and stating that executive session was held. He said staff recommended the Council authorize a motion for staff or City Manager to notify IAFF that the negotiation process would begin between the City and IAFF, Local 1882, Fire Union, for FY03-04.

MOVED by Baxter, SECOND by Bass, to authorize the City Manager to begin the negotiation process. AYE: Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin, Moeller, Haywood, Baxter. NAY: None. MOTION CARRIED.

There being no further business to consider, the meeting adjourned at 10:15 p.m. upon motion, second and roll call vote.