

Meeting of 2003-1-28 Regular Meeting

LAWTON CITY COUNCIL REGULAR MEETING
JANUARY 28, 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
 Brenda Smith, City Clerk
 Col. Steuber, Fort Sill Liaison

The meeting was called to order at 6:25 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.

AUDIENCE PARTICIPATION:

Lynn Struthers, 2308 NW Crosby Park Blvd., expressed concern about the proposed eight foot wooden fence that will be the screening between the subdivision and the new Wal-Mart. He said a few months ago he asked Baxter and Moeller to set up a meeting with Wal-Mart and the community so they could discuss what was being planned; that meeting did not take place but it may have allowed them to work out some compromises that would be better for the community. He said the Council gave assistance to those living behind the new Home Depot in requiring an eight foot masonry fence to abate the noise, and that would be preferable for Crosby Park and the new Wal-Mart. He requested assistance in finding some method of solving the screening problems.

Struthers said bids were received today for solid waste collection and landfill operations; if you were to award to the low bidder for the collection service contract, you would have to increase the budget by about \$1 million per year; if you were to award the landfill operations contract, you would have to increase that budget by about half a million dollars a year. Struthers said about half of those budgets are in personnel costs and the rest is primarily equipment related. He said he understood that some people think that our employees are overpaid, particularly our general employees, and it was a tenet that normally contracting out saves money for an organization such as a city or any other government organization. Struthers said based on these bids, our city employees are significantly underpaid because the cost of doing business by contract is about half again the cost of doing business using city employees. He asked that the Council keep that in mind later on this evening.

Struthers said if Council is considering contracting out other operation services, he did not think it was in the best interest of the City to do so; it takes time from staff to prepare the bids, time to take the bids, you exercise the contractors who prepare their bids and in all likelihood will not be able to compete with our prices, so you could keep that in mind. Struthers thanked officials for their attention and consideration.

Moeller said Struthers was correct on the meeting, there was a short time frame and she did not really know how it fell through the cracks. She said it was her understanding that it would be a sound abutment wall and not made of wood, and asked that staff check on it. Baker said staff will check the plans, get with Wal-Mart, see what they are required to do and if they might be willing to do more.

* * *

Bill Milspaugh, 5103 NW Liberty, requested the elimination of rebuilding of a bridge at 51st and Liberty as part of the Meadowbrook Flood Control Project. He said the route from Motif Manor Blvd. and NW 53rd Street through

Liberty has become a high speed thoroughfare for traffic. Milspaugh said virtually all residents along this route support this request; a petition was signed by 24 of the 27 occupied houses on this route supporting this request. He said he understood it was pretty late in the process to be making such a request but he attended several of the planning meetings and was told over a year ago that the bridge could not be eliminated and it was non-negotiable. Milspaugh said recently he was convinced that it was not so and he called Mr. Balinsky, project engineer, at the U.S. Corps of Engineers, who said it is not too late to stop the elimination of the bridge, it would only delay the project at most a couple of months, and would save the City of Lawton approximately \$120,000.

Milspaugh said he had also talked with Mr. Ihler and he opposes elimination of the bridge saying it needs to be there for safety purposes. He said he believed the safety that would be gained by the elimination of the traffic would more than offset any of the increased risks to those people who would be affected. Milspaugh said in the mid-70's there was a cul de sac at the end of Liberty and at the end of 50th Street; 51st Street was put in between those two cul de sacs to allow the building of those houses that are now being bought and leveled to support this flood control project. He said only two houses will be left to the south of that cul de sac, those two houses would be at risk for increased response time for emergency vehicles and both signed the petition to do away with the bridge. Milspaugh said all that is required from the City of Lawton is a letter to the Corps of Engineers requesting that the bridge not be rebuilt.

Shanklin asked if an agenda item would be returned in this regard. Mayor Powell asked Council direction. Baker said staff can evaluate the proposal and if Council wants it to be on the agenda, it can be done and Council can make that decision on the bridge. Baker said he discussed this with the Public Works Director, Fire Chief and Police Chief, and Mr. Ihler really has no problem eliminating the bridge but the problem is with the Fire and Police Departments as a matter of public safety.

Mayor Powell said Mr. Milspaugh said it was a matter of safety for the residents as far as the traffic and he asked that it be returned to the next agenda. Baker asked Ihler if that could be done and response was yes. Mayor Powell said it will be on the agenda two weeks from now.

CONSENT AGENDA: Separate consideration was requested for Items 1, 3, 6, 13 and 26.

MOVED by Shanklin, SECOND by Baxter, to approve the Consent Agenda items as recommended with the exception of Items 1, 3, 6, 13 and 26. AYE: Moeller, Haywood, Baxter, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for denial: Clifford and Suzanne Cherry and Joe W. Grimes. Exhibits: Legal Opinions/Recommendations.

Mayor Powell said he received information on the Cherry claim and copies had been given to Council.

Vincent said the sole issue is the statement by one of our employees that "our hydra-sawing the line caused a back up into the house." He said the employee made the statement before the service line was dug up so he did not know the finding from that line. Vincent distributed pictures of when the line was dug up by Mr. Allen's crew, they broke the line, found rags and black water coming out of the line at the time the service line was broke at the 45 degree elbow down into the main, which indicates the water had been in there and the hydra-saw could not have pushed the water up into the house because the black water and rags would not have been in the line if the hydra-saw had done that because it runs at 2,000 pounds of pressure.

Mayor Powell said the report states that one of our employees made a statement at the time that the function that was being performed by the City at that time is what, in fact, did cause the pressure to come back and shoot up through the interior of the house causing damage higher than just on the floor surface. He said that statement was made by the employee and also signed by the employee in the remarks paragraph, so that was where he had a concern.

Shanklin asked if there was a reference to this happening again. Vincent said Shanklin was referring to the letter distributed by Mrs. Cherry that referred to incidents in 2001 and 2002.

Shanklin asked if anyone had ascertained that there were \$17,000 worth of damages. Vincent said if Council determines the City should pay it, they were recommending one of two figures. Shanklin asked if insurance was involved anywhere. Vincent said not that he was aware of. Vincent said they were unable to identify certain items of damage that are claimed; if Council should chose to pay, \$14,927.56 would discount some of the depreciation and not pay for some of the items could not be verified; \$17,059.02 would pay full price for certain items claimed and the City would want to take possession of the couch.

Bass said in photograph four, when you flush your toilet and what is in that bowl backs up into your house, how does it look like that and how does it get into your living room. Vincent said perhaps Devine could answer better but basically it is the amount of water, and what looks black on the floor here is actually wet brown carpet. Bass

said his point was that this is an awful lot of water. Vincent said in the pictures passed out this afternoon, the second page, the last picture on the bottom left hand side, this was the stuff that came out of the service line when we broke the line at the elbow; also on the third page, these are the towels that Mrs. Cherry used to sop up the water and they do not have any blackness to them, they indicate that the water was clear. Mayor Powell said that still does not answer Bass' question. Vincent said the amount of water would depend on what was going on in the house if the service line backed up and Devine is the expert in this area.

Devine said there is no doubt the service line was stopped up and what came out of it but the problem is when you use the high velocity sewer cleaners, you are blowing the pressure back at 2000 psi and whatever is in that service line is going to come back in the house. He said if you have a normal stoppage, the most you will have is where it will run over the top of the commode. Devine said he understood from Mrs. Cherry that this actually blew up on the walls, which does not happen with a normal stoppage. He said everything in the house is gravity flow except the washing machine that has a pump but it would not create enough pressure to blow sewage onto the walls. He said the black sewage is what is at the end where the solids are dissolving; this is not caused from a normal stoppage in a house, it is caused from the pressure of the high velocity sewer cleaner blowing it back in there to get it up on the walls. Devine said it was his opinion the City needed to pay the claim. Discussion was held on an appropriate amount.

MOVED by Devine, SECOND by Shanklin, to pay the claim in the amount of \$14,927.56.

Baxter said he was not a plumber but he knew clear water from black water and the picture shows black water and rags hanging out of the pipe. He said if the 2000 pounds of pressure was pushing water back up the service line into the house, the rags and black water would be in the pictures showing the inside of the house but those show clear water. Baxter said he would not be able to support paying the claim.

Vincent asked if the motion could be amended to include a resolution. Devine and Shanklin did so.

Moeller asked if Devine could respond to Baxter's comments. Devine said some pictures show black water and some show clear water but the only way you can get the black water from the sewer is under pressure, it does not run over, you must have the pressure to push it because the black is from solids.

Shanklin said he did not see a picture of the bathroom and that was where the black would be. Baxter said one picture of the bathroom shows no black water. Shanklin asked if it was cleaned prior to this and said he was told that there was black all over the walls. Devine asked that Mrs. Cherry explain.

Mrs. Suzanne Cherry said she has not seen all of the pictures, only the ones with the letter from Mr. Vincent. She said they took a lot of pictures that day, she has two bathtubs and both were entirely black, it was up on the walls and she had never seen a toilet overflow with the black stuff everywhere, and the minute the guys came into her home, their exact words were "yes, this is from flushing, this is how you get this". Cherry said she made the comment that she wished she had one bathroom instead of four because it was coming from all ends of the house and she could not get to all ends of it and they said no, if there was only one bathroom we would have blown it out of the house. She said it was very evident that it was black and she did not have a clue what it was except for filthy nastiness and the workers called it soot from the insides of the pipes. Cherry said she was not out there when they were actually doing the digging, although they asked if they could move some landscaping to make the digging area, and how did she know the rags and black stuff were not pushed from down in the main somewhere, she did not know where they came from and said they did not come from her stools.

Mayor Powell said Cherry told him this black substance was on the ceiling. Cherry said there was some on the ceiling, all over the cabinetry, and all over the curtains in the bathroom has a tub in the center and two stools. She said the City people were not there immediately and they were trying to drag stuff out, such things as Vincent mentioned like the area rugs that they did not get to see, but they did see them, the gentleman that was called out to make a list, Mr. Vincent said there is no list but she walked through her home and he recorded every piece of furniture, every item she said was damaged. Cherry said she did not have brown carpet, her carpet was off white.

Ewing-Holmstrom said there are lists of damaged items, the age, proof, amount claimed, and asked if the City or Mrs. Cherry came up with the amount claimed. Vincent said Mrs. Cherry provided the paid bills for the items she was claiming and we took appropriate depreciation.

VOTE ON MOTION: AYE: Haywood, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin, Moeller. NAY: Baxter. MOTION CARRIED. *Note: Payment is by Resolution No. 03-11.

Vincent said the Grimes claim involved a sewer back up where the City had no prior notice. He recommended denial of the claim.

MOVED by Shanklin, SECOND by Baxter, to deny the Grimes claim. AYE: Baxter, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin, Moeller, Haywood. NAY: None. MOTION CARRIED.

Devine said he previously tried to have a system implemented where an overflow valve would be installed on the service side of a house that has had multiple stoppages to save money in future claims. He said the City is spending \$63 million to rehabilitate a small percentage of the sewer mains and some solution should be sought to eliminate some damages; an overflow valve is not 100% sure but it would eliminate a lot of it and it needs to be looked into a lot deeper. Mayor Powell said he was sure people would concur.

2. Consider the following damage claim recommended for approval and consider passage of any resolutions authorizing the City Attorney to file a friendly suit for the claim which is over \$400.00: Kyong Teeter. Exhibits: Legal Opinion/Recommendation; Resolution on file. Action: Approval of claim in the amount of \$591.00 and adopt Resolution No. 03-12.

3. Consider report from Oklahoma Centennial Commission and authorize release of fourth quarterly payment (fifth and final disbursement). Exhibits: Report, July - September, 2002.

Shanklin said Page 31 shows there is \$28,000 left, and \$50,000 will be given today toward the \$250,000 that Council approved for the Fort Sill Museum; that money has been being spent since September 2001. He asked if the Mayor knew where they would get the additional funding.

Mayor Powell said three meetings were held in early January at Fort Sill where the elected officials and other key people throughout the State were invited by General Baxter, who has been tasked with raising the funds for this at the present time and working under the Oklahoma State Centennial Commission. He said Blake Wade attended two of the three meetings, and there were 30 senators or representatives that attended at the Comanche House and were fed, given briefings and the entire tour of the artifacts by Towana Spivey, the curator at Fort Sill. Mayor Powell said he thought they had \$7.5 million committed. Shanklin said he did not want us to run out of money and get to a certain point and quit. Mayor Powell said that will not happen; the person hired to solicit funds from foundations did a great job but she is no longer there because they are trying to save funds so that expense has been eliminated and General Baxter has picked up and is doing that work that she was doing.

Shanklin said he had seen only disbursements to her and surely money was spent some place other than to her. Mayor Powell said money had been expended for different things but it had come under her work but the biggest part of the money was by her going to the different foundations, but that position is not there any longer. Shanklin said he thought Council should be told where all the money went and he was for it but it did not show it here. Mayor Powell said Council has as much as he has.

MOVED by Shanklin, SECOND by Baxter, to approve Item 3. AYE: Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin, Moeller, Haywood, Baxter. NAY: None. MOTION CARRIED. (Note: Recommended Action for Item 3 was: Accept the Commission's report and authorize payment of \$50,000 for the fifth and final disbursement, for the period of July 1 - September 30, 2002, bringing the total amount disbursed to \$250,000, concluding the City's commitment.)

Baker said the City will continue to receive quarterly reports until all of the \$250,000 in City funds have been accounted for, and we are still looking at \$78,000. Shanklin said he had heard Vincent say before that every penny has to be accounted for and he wondered where he was on this one. Baker said reports will continue to be received even though Council has satisfied its commitment of \$250,000.

4. Consider approving an agreement for the sale of treated water between the City of Lawton, Oklahoma, and Dr. Daniel Woesner, and authorize the Mayor and City Clerk to execute the document. Exhibits: None. Action: Approval of agreement.

5. Consider an amendment to agreement with Carter and Burgess Engineering Company to prepare an All Hazard Mitigation Plan under a Hazard Mitigation Grant. Exhibits: Agreement. Action: Approval as stated. Funded by \$15,000 HMGP Grant and \$5,000 General Fund.

6. Consider providing conceptual approval of the Lawton Urban Renewal Authority submitting an Oklahoma Department of Transportation Enhancement Grant application for beautification of NW 2nd Street. Exhibits: None. Action: Approval.

7. Consider authorizing a Resolution of Necessity for real property acquisition for the NW 38th Street Reconstruction Project #2000-16. Exhibits: None. Action: Adopt Resolution No. 03-13.

8. Consider adopting a resolution authorizing the Mayor and City Clerk to execute an agreement with the Oklahoma Department of Transportation for Right-of-Way, Public Utility, and Encroachments for the NW 38th Street (Cache Road to Rogers Lane) Reconstruction Project - STPY - 116B(045), State Job No. 18488(04) Construction, (03) Utilities, (02) R/W. Exhibits: Resolution; Project Agreement on file in City Clerk's Office. Action: Adopt Resolution No. 03-14.

9. Consider approving the purchase of a permanent easement located at 1105 NW 52nd Street, Lawton, Oklahoma, and authorize execution. Action: Approve purchase of easement (\$20).

10. Consider authorizing the City to enter into a promissory note with Annie Brown for the repayment of damages to a city vehicle and authorize the Mayor and City Clerk to execute the note. Exhibits: Promissory Note. Action: Approval; amount of note is \$1,353.94.

11. Consider renewing Mutual Aid Agreement between the City of Lawton and the Lawton Correctional Facility. Exhibits: Proposed Agreement. Action: Approval.

12. Consider awarding a construction contract to Downey Contracting, L.L.C. for the Municipal Pool Renovation Project #2001-22. Exhibits: None. Action: Award contract in the amount of \$159,900.

13. Consider approving the construction plans for a sewerline along SW Wisconsin Avenue and SW Sheridan Road to serve Bishop Manor Apartments at 2602 SW Sheridan Road.

Bass asked if an 8" sewer line was the standard requirement for the City for an apartment complex. Jerry Ihler, Public Works Director, said we request a minimum of 8"; a 6" is allowed in some cases on a shorter distance but 8" is preferred as a minimum.

MOVED by Bass, SECOND by Devine, to approve Item 13. AYE: Hanna, Devine, Ewing-Holmstrom, Shanklin, Moeller, Baxter, Bass. NAY: None. ABSTAIN: Haywood. MOTION CARRIED.

14. Consider approving plans and specifications for the construction of Lake Helen Fish Habitat and Access Improvement Project #2002-10 and authorizing staff to advertise for bids subject to approval of a 404 permit from the Corps of Engineers. Exhibits: None. Action: Approval.

15. Consider accepting the SW Wendy Drive Street Reconstruction Project #2001-27 as constructed by Bruton Construction Co., Inc. and placing the Maintenance Bond into effect. Action: Approval.

16. Consider adopting a street light resolution to authorize the installation of street lights at NW 53rd and Fairway Villa and on NW Cache Road between NW 67th and NW 82nd. Exhibits: Street Light Resolution No. 423. Action: Approval.

17. Consider approving a resolution authorizing the installation of traffic control devices on SW King Blvd., SW 82nd north of Lee Blvd., Rogers Lane off ramp at northbound Ft. Sill Blvd., SW Douglas at 11th, NW Boatsman just east of Coral, SW 12th at Bishop, SW 13th at bishop, SW 14th at Bishop, SW Jesse I. Davenport at Bishop, west side of 17th inline with Bishop, SW G Avenue from Sheridan to 27th, west side of Debracey from Allen-A-Dale to Kirkley. Exhibits: Resolution. Action: Adopt Resolution No. 03-15.

18. Consider directing staff to perform a traffic signal warrant study at the intersection of NW Crosby Park Blvd. and Quanah Parker Trailway. Exhibits: None. Action: Direct staff to perform a traffic signal warrant study at the intersection of NW Crosby Park Blvd. and Quanah Parker Trailway in May 2003, after the new Wal-Mart store is open for business.

19. Consider denying requests for the installation of traffic control devices on NW 54th and NW Cache Road and Horton Blvd. Exhibits: None. Action: Denial of requests.

20. Consider approving the lease agreement between the City of Lawton and the Marie Detty Youth and Family Services Center, Inc. (Midway Headstart). Exhibits: None. Action: Approval of lease at rate of \$700 per month.

21. Consider accepting offer to waive artist fees for General Lawton bust from Dr. Gary Gardner. Action: Accept offer to waive artistic fees for bronze sculpture of General Lawton.

22. Acknowledge receipt of election returns of January 14, 2003. Action: Acknowledge receipt of election returns of January 14, 2003, concerning the Waurika Project. Results are: Proposition One 1,775 in favor and 2,714 opposed; Proposition Two 1,364 in favor and 3,090 opposed.

23. Consider approving a grant from the Oklahoma Department of Libraries of \$1,000 for training for two certified staff for continuing education. Exhibits: None. Action: Approval.

24. Consider approving a grant from the Oklahoma Department of Libraries of \$2,000 for Hispanic Resources and Collection Development. Exhibits: None. Action: Approval.

25. Consider approving federal and state applications for universal service to make the Library eligible for discounted telecommunication rates and authorize the Mayor to sign necessary forms. Action: Approval.

26. Consider approving the following contract extensions: A) Lease of Office Facilities for Housing and Community Development with Kent Waller DBA KCS and Co. Inc.; B) Jail Food and Supplies with Wilson Wholesale Company, Inc. Exhibits: None.

MOVED by Shanklin, SECOND by Devine, to approve Item 26. AYE: Devine, Ewing-Holmstrom, Shanklin, Moeller, Baxter, Bass, Hanna. NAY: None. ABSTAIN: Haywood. MOTION CARRIED.

27. Consider appointments to boards and commissions. Exhibits: Memorandum.

Parks & Recreation Commission: Michael K. Jefferson, Ward 7, Term: 1/1/03 to 1/1/05
Lawton City (Municipal) Planning Commission (CPC): John Jones, Mayor's appointee, Term: 1/11/03 to 1/11/06;
John A. Pereira, Ward 2, Term: 12/14/02 to 12/14/05
Traffic Commission: Barry Ezerski, Term: 4/27/02 to 4/27/05; Shaun Wicker, Term: 3/9/02 to 3/9/05

28. Consider approval of payroll for the period of January 20 through February 2, 2003.

29. Consider approval of Minutes of January 14, 2003, Council meeting. Exhibits: None.

UNFINISHED BUSINESS:

30. Hold public hearings and adopt resolutions declaring the structures at: 7403 West Gore Blvd. and 1703 NW 15th Street 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: Resolution 03-___ and 03-___.

Shanklin asked how Item 37 would affect this. Vincent said Item 37 needed to be stricken.

7403 West Gore Boulevard: Angie Alltizer, Neighborhood Services, said a representative of the owner requested it be tabled for two weeks; they have a certificate of need to rehabilitate this nursing home. Mayor Powell asked if Alltizer thought that was appropriate. Alltizer said whatever the Council desired was fine with her. Moeller said that is in her ward and she agreed.

MOVED by Moeller, to table 7403 West Gore Boulevard for two weeks.

Ewing-Holmstrom asked how much the City had spent on this property and if those costs would be recovered. Alltizer said \$653 was spent for mowing and securing. Baker said if Council tables this, he asked Alltizer to ask the owners to pay their outstanding debt. Ewing-Holmstrom asked if that option is offered to others who have their property up for condemnation. Mayor Powell said time extensions have been given to others. Moeller said this is a nursing home, it has been a nuisance on the weeds, it was in a bankruptcy and it is out now; one door was busted in and it has been boarded up, she saw no windows out and the air conditioners are still in the windows. Moeller said the building is basically sound. Ewing-Holmstrom said she did not want to see more money being spent on a structure that Council keeps tabling.

SECOND by Baxter. AYE: Shanklin, Moeller, Haywood, Baxter, Bass. NAY: Ewing-Holmstrom, Hanna. OUT: Devine. MOTION CARRIED.

1703 NW 15th Street: Alltizer said the structures are five mobile homes. Council considered this in October and the owner was granted an additional 60 days. She said the door of one mobile home was found ripped off and it contained a substantial amount of junk and debris; utilities were terminated in September 2002, there is no current mobile home park permit and there has been no activity to remove or rehabilitate the structures.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Hanna, SECOND by Bass, to declare 1703 NW 15th Street to be dilapidated and dangerous, causing a blighting influence on the community, detrimental to the public safety and adopt Resolution No. 03-16.

Baxter asked if any of the mobile homes had been moved. Alltizer said as of 4:30 this afternoon, they were all still on the property.

Shanklin asked what we will do with these. Vincent said they will have the normal 15 days and if nothing is done, Neighborhood Services notifies his office and they go to District Court. Shanklin asked how that process was coming along. Vincent said it had been fairly successful on the ones they actually get the court to hear and that he would provide a report.

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

None. MOTION CARRIED.

31. 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: None.

Vincent requested the item be tabled as they had not been able to meet with the engineer and attorney.

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

BUSINESS ITEMS:

Mayor Powell said he had a note from management asking that Item 37 be stricken from the agenda.

32. Receive the mid-year report on use of Hotel/Motel Funds by the Lawton Chamber of Commerce and Industry and take appropriate action. Exhibits: Budget Revision Sheet.

Sheila Lee, Vice President, Lawton-Fort Sill Chamber of Commerce and Industry, provided a written report on funds used in economic development and tourism. Her remarks are summarized as follows: Five local companies contacted the Chamber with information on possible future expansion. New marketing materials are in use. The web site is operational at www.lawtonok.org. Assistance was provided by Cameron University and the Great Plains Technology Center to accomplish these projects. Lawton was named to two national top ten lists by two development magazines, one dealing with the Goodyear expansion and modernization being one of the top ten economic development projects in the nation. An industrial development survey is being done to establish a data base that will include information essential to industrial training, retention efforts and recruitment. Calls have been made in five states in the last six months to recruit business and industry.

Preliminary work is being done on making low interest loans available to Lawton building owners for the renovation of their store fronts. A partnership is being sought between the City of Lawton, local financial institutions, Cameron University, local designers and the Chamber to provide these loans. This program has great potential to compliment the Mayor's city-wide clean up campaign and comments from participants are very positive. In an effort to increase sales tax collections during the November-December time frame, with assistance from the Mayor, Chamber staff and volunteers organized a comprehensive retail promotion focusing on Christmas holiday shopping. The Santa Shops Lawton promotion was designed to encourage shopping with area merchants. Sales tax collections were up in November by 8%.

In October, the Chamber, in partnership with the Retired Officers Association, the Association of the United States Army, the Military Order of World Wars, and the Comanche County Veterans Council hosted a gubernatorial candidate forum focusing on military issues. The forum was held at the Cameron University Fine Arts Center.

The Chamber continues to coordinate lobbying efforts through consultant J.R. Reskovic of Capital Decisions, Inc. This program is funded through private donations. March 23-26 is the annual Washington, D.C. trip to gather information on legislation and activities affecting the Lawton-Fort Sill community.

March 18 is the State Legislative Reception; another activity for the same day is being planned to promote the Army Museum of the Southwest.

A list of conventions and events that Lawton has hosted since July 1 was provided in the binder. More than 7,000 event participants over the past six months equates to over \$500,000 in economic impact. The Oklahoma Harley Owners Group with 3,500 visitors for a three day rally will be held here in September. The Society of Human Resource Managers state convention is set for the summer of 2004, as well as the National Amateur Softball Association Tournament. Events such as the Wichita Mountains Classic are also sponsored and it represents people from ten different states. Tourism continues to grow vigorously. Lee said she, the Chamber staff, and Mr. Hatch are present to answer questions.

Shanklin asked Mr. Newkirk what was proposed on commercial property redevelopment; the Council directed the Mayor to appoint a clean up committee, and he was on it for one meeting but never heard anything else about it or he would not be asking the question. Court Newkirk said he met with seven local financial institutions and there are no signed documents yet but they will establish a low interest loan pool which will make it hard for owners to say they cannot improve their property because of the costs since the interest on the loans would be so favorable. Newkirk said if one or two on a block make improvements, there is some peer pressure for the others to follow.

Shanklin said a letter was received from General Stricklin on whether the Council would support the clean up committee and asked if that was for commercial and retail properties only. Newkirk said yes, they were trying to make it attractive to do this, rather than trying to force owners, and they offer free design work which can cost \$500 for just a new awning and painting, so they have partnered with local designers and Cameron University to

offer free design work; we are trying to put everything on the plate that would take away any resistance to redoing the store front.

Shanklin said he wants this to be successful and people need to have a building that is available and ready to rent, instead of looking bad, and that is a selling point. He said the owners must have a building that looks nice to make it attractive for businesses to rent. Shanklin said something needs to be done coming in from Gate Three and the committee needs to tell the Council if they need support.

33. Consider request of Comanche County to reopen discussion on combined City-County Jail.

Baker said the County Commissioners asked to resume discussions on possible City-County jail operations; this discussion was held several months ago and the Council decided not to enter into that project as a partner. Shanklin asked why it was not a joint effort. Baker said there were concerns about the operating cost and the controversy between some of the elected county officials, but the main concern was that it would cost the City significantly more than it is spending now.

Mayor Powell said one of the points he remembered was that some of the operational costs are coming from the quarter cent sales tax, and when that ends, he could see where the City's costs could go up dramatically. Shanklin said the County's will go up too, but the City's would have gone up from day one. Mayor Powell said if memory serves, we could get in for what we are paying now but at the end of the sales tax, we could foresee where ours would go up dramatically.

Bass said he and Devine were on the committee two years ago and they never got to financing because the County did not build enough beds for both the City and County so that was where it was left. Devine said he could not support this partnership because the cost was going to be phenomenal and it was underbuilt to start with, even though they are going to try to remodel some of their old jail.

Moeller said if discussions are reopened, she hoped the Police Chief would be involved and that items would be looked into such as elimination of an elevator and electronic doors that were to be included.

Baxter said there is nothing wrong with opening discussion and different Council members are now seated. He said a commissioner told him the cost to the City for servicing a prisoner for a day would be the same as what is being paid now at the City jail, and figures would be needed. Baxter said the City jail has a problem with overcrowding and there is nothing wrong with having a discussion.

Bass said one of the issues was the City had to pay for 100 beds whether they were used or not, and that was a big issue, and the County did not think they would have enough beds at that time. Baxter said he was not sure the 100 bed issue was still on the table.

Mayor Powell said two persons had requested to speak and asked that their comments be brief.

Chuck Miller said recently there was a fire drill at the County jail; after that incident, he told the State Fire Marshal that the personnel elevator was removed from the County jail at a county trust meeting; the State Fire Marshal's response was that the plans were approved with the elevator and they would have to look into it. Miller said he represented people who are sick and tired of the lies, deceit and failure of moral ethics as has been demonstrated by members of our County Commission. He spoke about oaths of office and Mayor Powell asked that Miller not get personal in his comments.

Miller said the citizens of Lawton are paying a greater percentage of the tax for that building and the trust authority was formed illegally to circumvent the State Statute and to take out the citizens' voice out of operating the jail so three individuals can run it. Miller said an election should have been called on the county trust authority; it would have eliminated a lot of the problems about having too small of a jail. The jail has 240 beds and crime goes up in bad economic times such as we are in now.

Roy Bailey, Cache, said they took out the elevator and electronic doors, which they should not have, and he was told by a deputy that nine showers are on a one-inch line, which will not be enough. He said crime is going up, the Legislature is considering housing drug offenders in county jails only so the county jails will be full pretty fast and it is only going to be 268 beds. Bailey said the jail was supposed to open in April, then in June, and now in August and they do not know when or if it will be open. He asked that City officials attend the County Commissioner meetings and see what is going on.

Mayor Powell closed the public comment portion and asked for Council action.

Shanklin said he agreed with Baxter to listen and asked if a vote should be taken. Vincent said he thought a vote had been taken to close it so it would be appropriate for the record to vote to open it.

MOVED by Shanklin, SECOND by Baxter, to open this up for discussion and listen to our police chief, specifically.

Moeller asked that staff check the legality of the trust authority before the City gets involved.

Baker asked who should be involved in the discussion. Harold Thorne, Police Chief, requested that David Livingston, the jail administrator, and someone from Municipal Court be allowed to serve on the committee. Mayor Powell suggested the Finance Director be included; Bass and Devine will serve as they were on the previous committee.

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

34. Consider approving an agreement with the Lawton Boat Club. Exhibits: Agreement.

Mayor Powell said there was a lot of discussion previously on this subject.

MOVED by Devine, SECOND by Baxter, to accept the contract that they offered. AYE: Moeller, Haywood, Baxter, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin. NAY: None. MOTION CARRIED.

35. Consider an ordinance creating Division 2, Article 5, Chapter 16, Lawton City Code, 1995, relating to the Prevention of Youth Access to Tobacco, providing for codification, severability and declaring an emergency. Exhibits: Ordinance No. 03-07.

Baxter said the ordinance is needed for the City to be able to receive funds from penalties assessed against those who sell cigarettes to minors; currently if the ABLE Commission does a sting operation in a local store and levies a \$200 fine, the City receives none of that. If the ordinance is on the books, the City will receive 35% of the fine. A local officer can also run a sting operation and the City would receive 100% of the fine. He said the ordinance is needed to hold people accountable for selling tobacco to minors.

Bass asked if this only changes where the money goes and for some of it to come to the City. Baxter said it follows the State law, which allows cities to receive a portion of funding if the ordinance is on their books. Shanklin asked why staff did not present the ordinance. Vincent said this is adding to our enforcement capabilities of a new State Statute.

MOVED by Baxter, SECOND by Devine, to adopt Ordinance No. 03-07, waive reading of the ordinance, reading the title only and declaring an emergency.

(Title read aloud) Ordinance No. 03-07

An ordinance pertaining to prevention of youth access to tobacco, creating Division 2, Article 5, Chapter 16, Lawton City Code, 1995, providing for codification, severability and declaring an emergency.

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

36. Consider rescinding Resolution 02-167 condemning the structure at 1210 NW Williams Avenue. Exhibits: Resolution No. 03-17.

Alltizer said this was condemned by Council in September 2002. The property owner did not obtain a permit within the specified time. An individual has expressed an interest in purchasing and rehabilitating the property. This is one of those structures that does not necessarily need to be torn down, it actually can be rehabilitated, and if the resolution is rescinded, it will save the City money in not having to pursue litigation in District Court. Alltizer recommended approving rescinding of the resolution of condemnation.

Hanna said he talked with the prospective buyer and told the person if it is not brought up to code in a certain amount of time that he would bring it back to Council for condemnation again and he was assured that it would be brought up to code. Hanna said it is a City employee.

Bass asked if the building is made of cement blocks. Alltizer said yes, there are three stucco structures. Bass said all of the blocks were knocked off on the side and asked if that building could be brought to code without being torn down. Alltizer said yes.

Devine asked if the City Attorney's office was working on code amendments establishing time limitations on building permits since there is currently no way to require that the work be completed. Vincent said Baker instructed them to have the certificate of occupancy issue on the February 25 agenda.

MOVED by Hanna, SECOND by Baxter, to adopt Resolution No. 03-17 to rescind Resolution No. 02-167, condemnation of

structure at 1210 NW Williams. AYE: Baxter, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin, Moeller, Haywood. NAY: None. MOTION CARRIED.

37. Consider adopting an ordinance adopting the latest revisions to the International Property Maintenance Code, amending Chapter 6, Lawton City Code, and declaring an emergency. Exhibits: Ordinance No. 03-____. This item was stricken and was not considered.

38. 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 power point presentation which is summarized as follows: In November 1999 the voters passed the 2000 CIP. A schedule of projects was presented showing the project amounts as was presented to the voters in 1999; next column shows the amount encumbered or spent as of January 1, 2003. The total appropriated amount for the sales tax projects was \$45.5 million; to date \$32.87 million is encumbered or spent on those projects, or 72%. On the ad valorem tax projects, \$21.74 million of the \$25.9 million is encumbered or spent, or 84%. For the overall program, 76% of the funds are encumbered or spent. One of the City Manager's goals was to get the program done as quickly as possible.

Bids on the Medicine Park Water Treatment Plant Expansion Project came in over projection, so \$4 million in water line construction, \$500,000 in landfill project costs, and \$1.3 million from the Gore Blvd., 67th to 82nd Street, were deferred and used for the treatment plant project. The water plant expansion project expands treatment capacity to 40 mgd. Van Horn Construction was awarded a \$34.6 million contract. Notice to Proceed issued November 1, 2001. To date construction is 50% complete. Pictures of the ozone chamber and clarification process unit taken during the summer were presented. Clarifier units should be on line by the end of February 2003 and ozone units by the end of May 2003.

Landfill Cells 2 & 3 were accepted in April 2001. Cost was \$2.5 million. The second part of this was the appropriation was for a future landfill site. Burns & McDonnell was awarded a contract for a landfill expansion master plan. The City owns 430 acres, the master plan will permit 140 acres, which will provide landfill space for about 30 years. As part of the design, the landfill cells will be constructed and lines for the next 10 years. The design of the maintenance facility is complete; construction is on hold pending receipt of the DEQ permit for the improvements.

Water Pump Station #1 feeds the industrial tower that serves Goodyear and other industries in the West Industrial Park. Quicksilver Construction was awarded a contract for \$452,000. Notice to Proceed was issued in November 2002. Review of the submittals is complete. They are currently working on the pad for the back up generator and hope to have the project complete by the end of spring 2003. Facility is the 7 million gallon ground storage tank at 67th and Atlanta near Cache Road.

Flower Mound Road from Gore to Rogers Lane is a joint project with ODOT. Robert B. Hendrick & Associates is working on the design, which is for a five-lane roadway from Gore to Rogers Lane. ODOT Funding may be received in late 2004 or early 2005.

East Side Park Improvements should be complete by spring or early summer. T & G Construction received the \$1.76 million contract. Notice to Proceed issued a year ago and construction is 90% complete. Items remaining are the parking lot and entrance road, as well as some grassing.

Gore Blvd. from 67th to 82nd is a joint project with ODOT. MGR, Inc. is designing the five lane roadway. ODOT has not approved funding, but the sooner the plans are in, the better chance. A plan in hand with ODOT will likely be held in the spring of 2003.

Central Junior High School and other improvements are administered by the Lawton Public Schools. Monthly funds are transferred based on a percentage of the CIP to LPS. The building is now occupied.

Shanklin asked if it was occupied 100% or if the Fire Marshal still had part of it shut down. Baker said he was not sure if it was shut down but there are still some unresolved issues.

Economic Development: In June 2000, Council appropriated \$250,000 to help fund the National Army Museum of the Southwest. In November 2000, Council appropriated \$187,000 to fund the water, sewer and roadway to serve Silver Line Plastics. In November 2002, Council appropriated \$20,000 to fund a left turn bay on W Gore Blvd. to serve the Assurant Group; that project should start in the next week or two. In December 2002, Council appropriated \$110,000 to fund Central Junior High access: \$30,000 for the design of the bridge, another \$30,000 for the crosswalk and signal, and \$50,000 for the fence.

Ad valorem tax projects:

There are three Water Distribution projects of \$1 million each; first was 4-1/2 miles of 12" and 8" water main, which was accepted in March 2002 at a cost of \$1.1 million. Next was 5 miles of 8" water main, which was accepted in October 2001 at a cost of \$1.25 million. The third project is currently underway by S.M. Burk Mechanical Contractors for 11,500 feet of 8" and 1,100 feet of 12" line at a contract amount of \$900,000. Notice to Proceed was issued July 2002; construction is 40% complete. A map was presented showing location of the various lines. Work to strengthen the grid system on the east side of Lawton High was also completed.

Final design is complete on NW 38th Street from Cache Road to Rogers Lane; right of way acquisition is needed. The project is scheduled for a July bid letting. Areas will be staked so the appraiser can meet with the residents and start negotiating.

Construction bids are being advertised for Fire Station #5 Relocation. Bid opening is February 25, 2003.

Approximately \$3 million from the 1995 CIP was approved two years ago for residential street projects, storm warning sirens, skateboard park, lighting project at McMahan Park, and roof work at McMahan Auditorium and Lawton Community Theatre. All of those projects are now complete. The largest project was the \$1.3 million appropriated for Flower Mound Road from Lee to Gore Blvd. Construction began in early January and should be completed by the end of the year.

Bass asked how the bid came out on fencing for Central Junior High. Ihler said the firm will do the project for the cost that was in the bid of \$33,500 and the unit prices were provided so they are moving forward. Devine asked how we did that legally after we notified them we had turned down the bid because they did not meet all of the requirements. Ihler said they were never notified of that; Council approved that as a slight waiver or exception that could be overlooked and move forward with awarding the contract.

Devine asked if work would ever start on 34th Street from Ferris to Oak. Ihler said Hendrick & Sons Engineering is currently preparing the preliminary design and construction bids should be received this summer; Ihler apologized for not mentioning it.

Moeller asked when school zone markings and lights would be put in for Central on Fort Sill Boulevard and Cache Road. Mayor Powell said a print out should have been distributed. Baker said Chief Thorne and Larry Wolcott drove that together, north bound and south bound, to look at the signs to see if it is adequate and to provide suggestions because quite a few complaints had been received.

Hanna asked if the lights were installed as you come up from under the bridge on Fort Sill Blvd. and if it would be a flashing light. Ihler said Electronic Maintenance was doing that installation. Baker will check.

Mayor Powell asked that Item 42 be considered next as some workers are present in the audience.

42. Consider transfer of Capital Outlay funds to the General Fund and authorize expenditure of funds for operations for duration of FY 02-03, if necessary. Exhibits: Resolution No. 02-219.

Baker said he sent a memo to Council in follow up and in addition to the background in the agenda packet. At this point in the year, we have done a good job of cutting expenses and have affected some significant savings. Some revenues have responded fairly well, such as sales tax, and we are in a position that it appears we can get through the year and the \$2.5 million deficit, but only if Council will authorize the expenditure of \$1.02 million appropriated for capital outlay for operations for the duration of this year, if necessary. Baker said if, by some miracle, we get a wind fall or something happens that we do not have to spend that money, obviously we will not do that and it will become part of the carryover for next year. He said he was running out of options; if Council wants to buy the equipment, he must find another way to save \$1 million. Baker said he could only think of one other way and that is to furlough employees. To generate \$1 million in savings, we would have to furlough general employees for 17 days during the remainder of this year. Baker said the reason he said general employees was because the City Attorney had already given a legal opinion that we cannot furlough members of the fire bargaining unit and Baker said he could not recommend furloughing police officers as it is a matter of public safety so that basically leaves the general employees and the memo states he does not recommend and strongly encouraged Council not to force furlough of the general employees when you cannot furlough police and fire.

Baker said he was asking Council to make a commitment because he needed a decision now because if you are not going to allow use of these funds from the capital outlay then he had to start doing something now to save that \$1 million. He said it is a difficult decision and he hated to defer purchase of equipment. Equipment is usually purchased in the last quarter of the year, if it is not purchased, we can rebudget it and buy it hopefully in the first quarter of next year so the purchase is just being delayed if you want to look at it that way.

Baker said there is a misconception that no equipment has been purchased this year but \$800,000 worth of equipment has been purchased. The request is to use the remaining funds from the \$3 C/O charge or capital outlay

charge for operations. Another misconception is that we are talking about capital improvement projects; we are not talking about capital improvements, we are talking about capital outlay, equipment. By not purchasing this equipment, it will have a negligible impact on any project. We are still going to get done what we have to do, we are just going to have to live with the equipment we have for a while but it's Council's decision. Baker said he would fully support that decision but urged Council to commit to allowing staff to use the capital outlay funds for the remainder of the year.

Moeller said she thought Council already agreed to use these funds that way but they would not be spent until the City Manager brought that need on a month to month basis and Council would approve the use of it at that time instead of transferring it in a lump sum. She asked if she was mistaken and Devine said no.

Baker said Council removed the restriction and said the money could be used for other than capital outlay but that he would have to get Council's permission to do that. He said the problem now is that unless he had that commitment from Council to allow use of this money, he would have to do something now to generate \$1 million in savings, so he needed to know whether Council would let him use that money.

Moeller said she thought Council agreed to let Baker use it but that it would be done month by month and used as needed rather than dumping it all in the general fund. Baker said it will not be needed until the end of the year; if we do not make it through the year, it is going to be that we run out of money at the end of the year, so it is very difficult to do monthly. Moeller said Baker was asking to free it all up and put it in the general fund and that was the one thing the Council did not want to do; it can be used for the budget shortfall but not all in one lump sum. Baker said if we run out of money, it will be at the end of the year and there will not be enough time to make up \$1 million. Mayor Powell said that Moeller is saying is that Council already said Baker can do so this but the figures would have to be brought back when those funds are needed for expenses. Moeller agreed and said if on March 1 we will need \$500,000 to meet the budget, Baker would bring that item for Council approval. Mayor Powell said the City Manager needed to show the Council where he needed it. Moeller said it would be released as it was needed. Baker said if Council had already made that decision then he was fine, but he did not understand it that way.

Shanklin said this \$1 million has not been collected yet, it is collected on a monthly basis. He said he wanted to know where we would get the other \$1.5 million before voting for this. Baker said they were hoping Mr. Endicott could give his briefing before this item and it should explain that.

Hanna said if we wait until March and all of the sudden he says we need this \$1 million right now, how do we justify to the employees when we say no, you can't have it or just portions of it, how do we justify laying people off that quick. Moeller said we are not going to do that. Hanna said we don't know that until it comes to a vote of the Council. Moeller said we already said yes, you can free this up so we do not have to furlough but we are not going to transfer this balance into the general fund without any safeguard. Moeller said she thought Council had agreed that no, they will not furlough anyone and that this money can be used but it will be used as needed, not just a blank check.

Baxter said he agreed with Hanna, and he got the impression that the way Moeller was explaining it that every time the City Manager needed \$100,000 that he would have to get Council approval, and it takes five votes for him to get what he needs every time he comes before Council and he is asking to do it where he only has to get those five votes one time. Baxter said elections are coming up and if you have two or three new Council members, you cannot speak for how those people are going to vote. Moeller said she was not talking about future votes but about what Council had already agreed to do; Council agreed to not furlough and to allow use the money but we would vote on it as needed, approve it as needed.

Bass said when they voted yes they definitely did not want to furlough anybody or have anybody lose their job. He said Moeller wanted to know how the money was going to be spent, whether it would be for salaries or other things to make it through the end of the budget, and not for some grant you are going to sign up for and spend \$100,000 to match it. Baker said it will be spent on the last \$1 million of needs and he could not say whether it would be to pay an electricity bill, buy water treatment chemicals, buy fuel or pay salaries; it will be used for the last \$1 million in operating expenses. Devine asked where the other \$1.5 million would be found and Mayor Powell said Mr. Endicott will respond to that during his report.

Mayor Powell said if we could, for clarification purposes and the City Attorney should correct him if he was wrong, could we have a motion to satisfy Moeller's needs on this, what's already been done but Baker has already justified, the Council has give the blessings to this but he will bring it to you in a figure. He said Baxter was not going to like this because of his comment about the future.

Baxter said if Baker waits until the last month of the fiscal year, it is after re-election and you cannot say that he needs to come ask this Council for \$500,000 for the last month of the fiscal year and you have three new Council members up here, we cannot speak for those people. Moeller said you can ask for the money you need in June on the first of April, and say that in May and June we will need a certain number of dollars to finish the budget.

Hanna asked if it would be appropriate to transfer \$250,000 per month until the end of the fiscal year. Baker said that would be fine, all he needed was a commitment from Council that if these funds are needed, Council would give them to him because he needed to know that now. Baker said one member said Council has already done that. Mayor Powell asked are you satisfied it's been done, all right.

Shanklin said there are 30,500 water meters so you multiply it times three and see how much will be generated per month and it has not been collected for the upcoming months.

Mayor Powell said it is the consensus, the City Attorney has nodded his head yes, this affirmative action has been done so there's no need for any action, and asked if that was correct. Vincent said he had whispered to the Mayor that the Council's motion as he recalled the resolution was to remove the restriction and that Mr. Baker was to bring back to the Council on an as needed basis, the request for money. Mayor Powell asked if everyone was happy with that and said that was good. Shanklin said the money has not been collected yet. Mayor Powell said he wanted to make one comment, and hoped that everybody was listening very carefully when Mr. Baker read this letter, because he had already heard on the street where you were going to recommend to furlough people - "in my opinion it would be a critical mistake to furlough general employees only and not fire and police; this would send a loud and clear message to general employees". Mayor Powell said he hoped there was clarification there on that exactly what Mr. Baker said. He asked that Council now consider Item 39.

39. Consider adopting an ordinance notifying the public of the publication of Supplement No. 8 to the Lawton City Code, 1995, and declaring an emergency. Exhibits: Ordinance No. 03-08.

Vincent said periodically we compile all of the ordinances that have been passed to a given date and place them in the book, allow for the public to purchase them, and once that has been done we are required to furnish a copy to the County Clerk and the County Law Library. He recommended approval.

MOVED by Shanklin, SECOND by Devine, to adopt Ordinance No. 03-08, waive reading of the ordinance, read the title only, and declare an emergency.

(Title read aloud) Ordinance No. 03-08

An ordinance approving Supplement No. 8 to the Lawton City Code, 1995, directing filing and notification of the publication of Supplement No. 8 to the Lawton City Code, 1995, and establishing a fee for the sale of Supplement No. 8, and declaring an emergency.

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

40. Consider establishing an Investment Review Committee consisting of the Assistant City Manager, Finance Director, Financial Services Supervisor and two Council members and two citizens selected by the Mayor, and provide guidance as appropriate. Exhibits: None.

Rick Endicott, Finance Director, said in July last year the City hired Crawford & Associates, CPA, to look at whether the investments were being done legally and they had a favorable report from their findings; one comment made in the report was a recommendation for the City to establish an investment committee made up of those listed in the item. He said recently the external auditor recommended an investment policy be considered and Endicott suggested that be done through the investment committee.

Shanklin asked who the Financial Services Supervisor is and Endicott said Laura Smith.

MOVED by Shanklin, SECOND by Moeller, to direct the Mayor to form this committee and the Mayor appoint his two council people. AYE: Moeller, Haywood, Baxter, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin. NAY: None. MOTION CARRIED.

41. Consider receiving a report on the City's financial condition for the first six months of fiscal year 2002-2003 and provide direction to staff. Exhibits: None.

Endicott said the report was distributed last week and that a four-page summary of that report is being distributed. His presentation is summarized as follows: The executive summary shows on general fund revenue, the City sales tax is up year to date 1.19% or approximately \$90,000 compared to last year. The approved budget includes revenue from a 2% increase. It is hoped that collections will meet or exceed the revenue projected of \$15,492,000.

Franchise tax is down 3.3% or \$28,000 year to date, so there is a projected deficit of \$143,000. Police fines are down 2.5% for the year, July to December, \$28,965; there is a projected deficit of \$139,000 for the year in police fines. In the Enterprise Fund, water revenue is down 1.46%, \$84,000 year to date; approximately 47% of the budgeted revenue was collected as of December 31. The projection is that water revenue will be down \$1,374,849

for the fiscal year. Sewer revenue is down 2.85% or \$62,000 compared to last year. Budgeted revenue estimate overall for the year was an increase in sewer of \$57,000. Refuse revenue is up 11.15%, \$134,397 for the year; the budget included a \$1.50 rate increase which is projected to generate \$600,000 over the year; also there was an additional 2% increase in that fund. With those combined revenue sources, there is a projected deficit of about \$231,000 in refuse which is due to one of the major haulers going elsewhere. Landfill fees have increased 6%, \$1,485 over last year, however, we are projecting a deficit of \$6,429 in landfill fees. Total budgeted revenue was \$46,475,929; we are projecting we will be approximately \$1,623,767 short of that projected budgeted amount.

General fund expenditures are currently at 47.7%. Expenditures are down and this is one area where the other \$1.5 million can be made up. There was an \$885,754 shortfall in the carryover balance. Total projected deficit on page two is \$2,509,521.

Endicott said the Council and City Manager have taken several steps to address the deficit over the last few months, such as a hiring freeze, capital outlay deferrals, trying to reduce overtime, vacancy adjustments, and many things are being done internally to try to address these issues. Most of these are addressed in the financial statement, however, over the last couple of months, the areas listed are additional revenue sources that we believe will help us in the coming months, and those sources come to \$109,000.

Endicott said Council just discussed capital outlay and he was grateful that the decision is made, so the next area is general fund and enterprise fund, decreasing expenditures. The City Manager issued a directive to all directors to look at their accounts and spend no more in the second half of the fiscal year than was spent in the first half, and hopefully less. An estimated savings would be \$750,000 if that happens. We also believe we can reduce expenditures in the enterprise fund by an additional \$700,000. With that in mind, we think we will be \$2,611,000 and that would be an additional \$100,000 if everything happens just like it is on paper, which we are optimistic but we would end the year with a projected carryover balance of \$678,000 in addition to the \$100,000 listed here and that would address the deficit.

Endicott said the refuse rates were increased by \$1.50 and it was his understanding and the City Manager has directed him to set up a reserve account and put fifty cents of that \$1.50 into a reserve, and that is about \$138,000 for this year. He said if Council decided to not have that reserve, that is an additional \$138,000 that we can increase our revenue by, and it is shown as being included in the overall deficit number.

Endicott said the report does not address the health plan issues and it is not reflected in these numbers. He said the general fund is more or less having to subsidize the health fund to a degree, we are expecting probably about \$450,000 this year to pay medical claims. Endicott said everything shown in the reports does not include the \$450,000 and he wanted to make sure that was clear, and we are trying to deal with that as a separate issue.

Endicott said Attachment C shows how the reserve is addressed. The \$138,000 reserve is shown in the enterprise fund and the total revenue or deficit shows up as \$1.623 million, and that is where the \$138,000 reserve is shown.

Bass asked if the \$450,000 deficit in the health plan is for the rest of the year. Endicott said we anticipate putting that in, we have put in about \$400,000 as of right now. Bass asked if for the next six months you will put in \$450,000. Baker said the City budgets approximately \$2.5 million for the health insurance each year and 1/12th of that is advanced to the health plan per month so it is about \$200,000 per month. Baker said right now, in order to cover claims, we have advanced the health plan two additional months or about \$400,000. Baker said premiums will have to be raised or coverage will have to be reduced or both, and something must be done. He said there are also problems in that grievances have been received from the bargaining units on changes that have been made to the health plan and those will probably be going to arbitration, we do not know what will happen with that. Baker said the health insurance is not included in the overall briefing on finances.

Devine said it is back to the fifty cents and he had fought this issue from the day the Council voted for the \$1.50 to be put on the utility bill and that fifty cents of that money would go into reserve. He said it seems like it is trying to come up here to be put in reserve, but we are turning around and saying if we put it in the general fund; how can we do that when this money was voted on by this Council to put into reserve.

Baker said he directed the Finance Director to put that in a separate account called reserve; what that means is that at the end of the year, you will have that amount of money in that account called reserve but your carryover is going to be that amount less; that is all that means. He said then if you want to maintain that reserve, he would carry that amount over and budget a reserve next year which will actually be a budgeted item called reserve, that is different than carryover, but all the reserve is really doing is decreasing the carryover. Mayor Powell said that was covered on page two. Devine said he wanted the minutes brought out what that money was designed to be used for, it was not a use or reserve to be put in the general fund if needed. Devine said when he made that motion it was for that money to be set aside and for matching funds when we needed it, to be put in reserve to be used as matching funds. He asked Moeller if that was correct and Moeller agreed.

Baker said he directed the Finance Director to put that money in the reserve and that is where it is at.

Shanklin said the Human Resources Director can tell you that our health plan is far superior to almost any in the State of Oklahoma. Tim Golden, Human Resources Director, said we offer a generous health plan. Shanklin said the poor old folks in Ward 5 are subsidizing it and we are not the richest city, although some of us think we are, but we are not, and for us to have that, to furnish these things, it is a burden, someone will have to help us carry it. Shanklin said he thought he saw something where Baker had already done something about \$25 and the health plan. Baker said the \$25 is just one of many recommendations that are being considered to bring to the Council; the \$25 was the single coverage. Shanklin asked if it would be done before the end of this year. Baker said yes, probably at the next Council meeting.

Moeller said back to the reserve and the carryover, we do understand the difference in the two, and Council has been asked repeatedly to find a way to come up with a reserve. She said the statement was that most cities are asked to have 8% to 10% of their budget in reserve, which is very different from a carryover. Moeller said we do need it and it does need to be a budgeted item. She asked if there was anything saying that once the reserve is established and created and built in so we have money for the tornadoes or whatever that it cannot be used for salaries or things like that but it is a reserve for emergency items; is there anything in place that limits that so it cannot be used for salaries.

Baker said since we have never had a reserve, we do not have a rule but most reserves can only be spent by approval of the governing body, and it can be set up like that. Baker said we need fiscal policies and the recently appointed committee would provide a recommendation; part of that would be to maintain a reserve of at least 8% of the operating budget at any given time and the reserve funds will be budgeted annually by the City Manager in the preliminary budget and none of those funds could be used without the authority of the City Council.

Moeller said she would like to see that go forward and be the policy that is implemented because we are never going to get out of this hole if we do not have something like that.

Mayor Powell said every year we ask and address that issue during the budget workshops, we would like to have a reserve, every year, and he would also like to have it.

Ewing-Holmstrom asked how much it would be if we froze longevity for the remainder of the year. Endicott said one union receives it in December and the other in May or June, and general employees also receive it in June. Baker said he thought it would be around \$400,000 to \$500,000.

ADDENDUM:

1. Consider approving an amendment to the Agreement for Sale of Surplus Treated Water with the City of Geronimo for maintenance of the 12-inch waterline located along SW 11th Street to serve the City of Geronimo. Exhibits: None. (Amended Agreement on file in City Clerk's Office)

Vincent said on December 17 the Council accepted the 12-inch waterline subject to the two-year maintenance bond. The City of Geronimo did not contract with their builder to provide only a one-year maintenance bond. The contract amendment is where the City of Geronimo agrees to cover the second year of the maintenance bond and make any repairs necessary. He recommended approval.

MOVED by Baxter, SECOND by Haywood, that we amend the agreement with the City of Geronimo for the maintenance bond. AYE: Haywood, Baxter, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin, Moeller. NAY: None. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER.

Col. Steuber said units and equipment continue to deploy, two trains pulled this weekend going to Beaumont for loading. He said had we not been in session tonight, we would have all been watching the Commander in Chief's State of the Union Address to see if we could get some more detail on where we are going. Col. Steuber said right now we truly do not have any secrets in our back pocket and we are waiting for the President to make the decision to see whether we are going to go early, go late or not go at all, and he was sure there would be more to follow in the coming weeks.

Col. Steuber said Fort Sill has received a number of augmentation units, the 5045th has been mobilized and another will be mobilizing to assist with medical requirements on post, and those are being integrated into the organization. He said he knew there had been losses in the City government and throughout the region due to some of those mobilizations. Col. Steuber said they continue training at a pretty rapid pace and rattled some window panes and rafters this week but it goes to making sure that our soldiers are absolutely up to speed and ready to do their mission if called upon, and that will continue for the indefinite future.

Col. Steuber said he sent forward Fort Sill's request for a landfill exemption so they can continue to operate their own landfill. Use of the City landfill would more than double Fort Sill's cost to over \$2 million, and if they had to go

to Oklahoma City it would be over \$3.3 million to do the same thing. He said the public and government employees do an outstanding job, not just for the City of Lawton but for Fort Sill as well, and it makes it a bargain for the federal government to maintain that landfill.

Col. Steuber said they had completed the gate house inspection sites for Scott Gate, which is Fort Sill Boulevard, and they are currently working on Key Gate West and next will be Bentley Gate on Sheridan Road. Those will make sure that inspections can be done in all weather conditions. He said the Cannoneer Softball Complex is getting a complete facelift, putting in irrigation systems, those are the four softball fields along Sheridan Road towards Bentley Gate, and we look forward to being able to use those in conjunction with the City to see if we can draw additional tournaments to benefit the community. The biggest cost is to make it a lighted facility and General Maples decided to go in that direction.

Shanklin said there is water at 38th and Rogers Lane in the ditch and he asked if it had been checked. He said there is too much water coming in for it to be drainage.

Shanklin said we have not addressed and maybe we do not have to but Mr. Vincent said if those bond issues failed, we would have to come up with \$20 million in a lump sum and he had the bonding people with the letter here saying the same thing. He asked if that was still true and if so, how would we get the money or collateral. Vincent said Baker met with Waurika today and may provide information that we have been receiving from them over the last week about a change in their position. Baker said he told the Waurika board the outcome of the election and they seemed very receptive to working with the City so we can continue our agreement and continue to make annual payments at a very favorable interest rate; they do not want a check for \$20 million and the City would be idiotic to give them a check for \$20 million because the debt is not due for 25 years. Shanklin said he understood that, we told the people that, and you had a letter from the bonding company that said that, so it was a bunch of hoey then. Vincent disagreed.

Mayor Powell said when this all surfaced back in October or November, it was brought up at that time that the Council 25 years ago had the ability to place that indebtedness on ad valorem taxes and that Council did not chose to take that route, and no Council since that time had chosen to take that route. He said you can safely say that this was a courtesy call to the citizens where this Council did not drive it down their throats, which they had the ability to do, but simply this was a courtesy call to ask do you want it on there or do you not want it on there, and they said, as we probably thought they would, no, we do not want it on there, so that is where we are right now. Mayor Powell said this happened in the October time frame and it has been discussed several times so in his opinion it was a courtesy call because they did not drive it down their throats as they had the ability to do. He asked Vincent if that was correct and Vincent said yes.

Shanklin said he was glad the Mayor said that; the proposition in 1977 says ad valorem and lawfully and operations and maintenance; it does not refer to the conduit or the reservoir, and he had a copy of it, and asked if you can interpret it to include the reservoir and the conduit. Vincent said he would not debate it with Shanklin. Shanklin said he did not have to, he had three lawyers and a judge saying you could not do that. Vincent said a report is coming to Council by next Monday and that he would not get into a debate with Shanklin on the Council floor when he did not have the facts and figures in front of him.

Devine and Col. Steuber discussed reserve units being activated and stationed at Fort Sill. Devine said it was great that the support was being provided for Fort Sill.

Moeller said she would like to address a comment that was made and she hoped that seated Councilmen never back off of investigating, talking and going forward on proposals just because the election is coming up. She said she did not intend to, she would be re-running and had drawn two opponents and that was fine and that she intended to continue to do her duty until the citizens chose to remove her. Moeller said she had not planned to return because of questions about her husband's health but since that is not an issue any more, she will be running and intended to go forward and leave that up to the people.

Ewing-Holmstrom said she wanted to encourage all citizens who care about the City budget to contact Representative Ron Kirby and voice their opposition to Bill 1515 that would force cities to allow vacancies and continue to write off and support and subsidize apartment complexes and rental properties.

Mayor Powell said he would like to inform Council that there has been a meeting held, and it was what he would call a summit meeting, he had a great concern for the community as far as Fort Sill is concerned, we want to make sure it is always as strong as it is right now if not growing. Those in attendance at the meeting held last Tuesday were the Commanding General, General Maples; the past Commanding General, General Stricklin; the past Commanding General prior to that who is with the Chamber of Commerce, General Baxter; Dr. Ross, the President of Cameron University; Barry Beauchamp of Lawton Public Schools; Dr. Tom Thomas representing the Vo Tech School in the absence of Mr. Nisbett; Dr. Gibson, the Civilian Aide to the Military; and Bill Baker and Larry Mitchell with the City of Lawton. Mayor Powell said he asked them what is the biggest concern in the Lawton-Fort Sill community and it finally came down to what he hoped it would and it was to insure that Fort Sill is always as stable

as it is right now, if not grow, and how will we do that. He said out of that came General Stricklin volunteering to lead a committee on what statement will we make; it is our intention to have Senator Inhofe come in, Representative Cole, J.R. Reskovic, the lobbyist who is working D.C. for us; and another charge given out there was how can we better work together, partner up on more things to make this a stronger community. He said we have got notes on that and as we move along on this, he would advise Council on the next meeting he believed to be February 5th, and then hopefully we will have all this in place by February 20 and Representative Tom Cole will be in Lawton and we can meet with him at that time.

Moeller said regarding Waurika, as Baker is working on it, if there is a way we can get it amortized so it is even instead of escalating so we can budget for that payment, if possible we should do that.

Hanna said he made telephone calls to Olive Garden in Tampa, Florida, and learned they will build five new Olive Gardens per year for the next five years and Lawton is considered to be one of those 25 sites.

Addendum:

2. 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 Firefighters Union, IAFF, Local 1882, and the City of Lawton, and take appropriate action in open session. Exhibits: None.

3. 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. Exhibits: None.

Business Items:

43. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the continued employment of Michael Corrales as Municipal Judge, and in open session, consider approving an Employment Agreement with Michael Corrales as Municipal Judge and authorize the Mayor and City Clerk to execute the Agreement.

44. Pursuant to Section 307B.3, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the possible purchase of real property in Section 10, Township 4 North, Range 11 West, and if necessary, take appropriate action in open session.

45. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending lawsuit of Catherine Huffer vs. City of Lawton, Case No. CIV-03-0082HE, Western District of Oklahoma, and if necessary, take appropriate action in open session.

46. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending EEOC claim of Linda G. Hargrove vs. City of Lawton, and if necessary, take appropriate action in open session.

MOVED by Haywood, SECOND by Baxter, to take a short break and then convene in executive session to consider the items so listed on the agenda and as recommended by the legal staff. AYE: Baxter, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin, Moeller, Haywood. NAY: None. MOTION CARRIED.

The Mayor and Council convened in executive session at approximately 8:55 p.m. and reconvened in regular, open session at approximately 9:30 p.m. with roll call reflecting all members present.

Mayor Powell read the title of Item 43 as shown above regarding Michael Corrales, Municipal Judge. He said he needed a motion to approve the contract that was discussed for the next two years.

MOVED by Baxter, SECOND by Haywood, to approve as stated.

Devine asked if they were voting only on the contract. Baxter said it includes the amount. Devine asked if that was including the amount and Mayor Powell said the amount as discussed.

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

*Note: The following comments were made during roll call: Devine said he could not vote in favor of giving a raise when everyone didn't. Baxter said he would vote yes and that everyone else did get a raise.

Vincent read the title of Item 44 as shown above. He said Council convened in executive session and no action is required at this time.

Vincent read the title of Item 45 as shown above. He said Council convened in executive session and discussed this matter. Vincent proposed the following motion: For the City to retain the law firm of McAfee and Taft to represent Mr. Jerry Ihler and Mrs. Lou Ann Browning in their individual capacities in this Western District Court case.

MOVED by Bass, SECOND by Baxter, for the City to retain the law firm of McAfee and Taft to represent Mr. Jerry Ihler and Mrs. Lou Ann Browning in their individual capacities in this Western District Court case. AYE: Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin, Moeller, Haywood, Baxter. NAY: None. MOTION CARRIED.

Vincent read the title of Item 46 as shown above. He said Council convened in executive session and discussed this matter. Vincent proposed the following motion: To approve the attendance at the conciliation session and that Councilperson Amy Ewing-Holmstrom be appointed to attend those sessions.

MOVED by Baxter, SECOND by Devine, to approve the attendance at the conciliation session and that Councilperson Amy Ewing-Holmstrom be appointed to attend those sessions. AYE: Hanna, Devine, Ewing-Holmstrom, Shanklin, Moeller, Haywood, Baxter, Bass. NAY: None. MOTION CARRIED.

Mayor Powell read the titles of Addendum Items 2 and 3 as shown above and said asked Vincent if they could be acted on at the same time as it is the same concern. Vincent said he thought it would be better to vote on them separately. Mayor Powell asked for action concerning Addendum Item 2 concerning the fire bargaining.

MOVED by Bass, SECOND by Shanklin, that John Vincent be added to the negotiating team with the Fire Department. AYE: Shanklin, Moeller, Haywood, Bass, Hanna. NAY: Ewing-Holmstrom, Baxter, Devine. MOTION CARRIED.

Mayor Powell read the title of Addendum Item 3 as shown above.

MOVED by Bass, SECOND by Hanna, that John Vincent be added to the negotiating team with the Police Department. AYE: Shanklin, Moeller, Haywood, Bass, Hanna. NAY: Baxter, Devine, Ewing-Holmstrom. MOTION CARRIED.

There being no further business to consider, the meeting adjourned at 9:40 p.m. upon motion, second and roll call vote.