

later moved to the Parks Department to work with the youth. Broom as he is called by friends and family, said he just wanted to make a difference in the lives of the youth. Broomfield has three children and five grandchildren.

ARTS AND HUMANITIES PUBLIC AWARENESS CAMPAIGN

Mayor Powell read and presented a proclamation to Margaret Chalfant, Arts and Humanities Director. The proclamation addressed the October as Arts and Humanities Month.

AUDIENCE PARTICIPATION: Deborah Jones, Planning Division, presented a slide presentation of the Lawton Area Transit System, speaking on accomplishments and future goals and expectations of the program and said ridership was up 4,000 from September 2002. Jones said more money should be expended on security, but as to date, there have been no incidences due to the lack of security and measures have been discussed regarding security device installations. Sheerer said one covered shelter had sustained damage, but no damage had been reported to the vehicles. Bass commended LATS for the great job they are doing.

CONSENT AGENDA: All items approved as recommended except items 10, 11, 12, and 14.

MOVED by Haywood, SECOND by Warren, to approve the Consent Agenda items as recommended. AYE: Devine, Shanklin, Patton, Haywood, Warren, Bass. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for denial: Demetrius and Temika Jackson and Lillie Frances Wilson. Exhibits: Legal Opinions/Recommendations.
 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: Leonard and Janis Knowles, Lisa and Walter Edwards, Southwestern Bell, Eddie Cordes Jeep-Dodge, Nol A. Chine, Edward and Mary Copeland and Michael Goodin. Exhibits: Legal Opinions/Recommendations; Resolution No. 2003- **164**, Resolution No. 2003-**165**, Resolution No. 2003-**166**, Resolution No. 2003-**167**, Resolution No. 2003-**168**.
 3. Consider adopting a resolution authorizing the Mayor to make application to the Bureau of Indian Affairs for easements required for the N.E. Flower Mound Road Project. Exhibits: Resolution No. 03- **169**.
 4. Consider approving an Agreement between Fort Sill and the City of Lawton establishing procedures for the reporting of Fort Sill soldiers who are convicted in municipal court of offenses involving domestic abuse or violence, and authorize the Mayor and City Clerk to execute the document. Exhibits: Proposed agreement.
 5. Consider rescinding offer of funding for the Lawton Philharmonic Society in the amount of \$30,000 from Council Contingency Fund. Exhibits: None.
 6. Consider approving Change Order No. 1 for the NW 38th Street (Cache Road to Rogers Lane) Water & Sewer Line Relocation Project #2003-9 with Jim Mayes Co., Inc. Exhibits: None.
 7. Consider rejecting bid proposals for the McMahon Park In-Line Hockey Rink Project #2002-7 and authorize staff to re-advertise. Exhibits: None.
 8. Consider acknowledging receipt of a permit from the Oklahoma State Department of Environmental Quality for the construction of 2,787 linear feet of eight (8) inch PVC sewer line and all appurtenances and 1,941 linear feet of eight (8) inch PVC water line and all appurtenances to serve the Kingbriar Addition Part 5, City of Lawton, Comanche County, Oklahoma. Exhibits: None.
 9. Consider approving contracts for Community Arts Program for Cynthia Sosa (\$400.00) and Jeff Dixon (\$93.00), facilitators for the interviewing/writing portion of the project. Exhibits: None. Contracts on file in the City Clerk s Office.
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10. Consider awarding the contracts for the foundry and computer enlargement companies needed for completion of the bronze sculpture of General Lawton by Dr. Gary Gardner. Exhibits: None.

Mayor Powell said he pulled this item for clarification of funding and to let the citizens know this expenditure was from the Centennial Celebration Fund and not from the general budget.

MOVED by Haywood, SECOND by Warren, to approve Item 10 as listed. AYE: Devine, Shanklin, Patton, Haywood, Warren, Bass. NAY: None. MOTION CARRIED.

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11. Consider approving an agreement with Great Plains Improvement Foundation, Inc., a Community Housing Development Organization (CHDO), for the production of two affordable housing units and authorize the Mayor and City Clerk to execute the document. Exhibits: None. The agreement is on file in the City Clerk s Office.

12. Consider approving the Releases of Mortgage between the City of Lawton (Lender) and participants of the CDBG &/or HOME program (Borrowers) listed below and authorize the Mayor and City Clerk to execute the documents. Exhibits: None. Copies of the Mortgages and Releases of Mortgage are available in the City Clerks office for review.

Vincent said Items 11 and 12 involved CDBG funds of which Haywood could not vote.

MOVED by Bass, SECOND by Devine, to approve Items 11 and 12. AYE: Shanklin, Patton, Warren, Bass, Devine. NAY: None. ABSTAIN: Haywood. MOTION CARRIED.

13. Consider approving the following contract extension: Waste Oil Disposal (CL02-019) with ORI Recovery, Inc. DBA Oils Recovery. Exhibits: None.

14. Consider awarding contract for Landfill Compactor (CL04-014). Exhibits: Department recommendation and Abstract of Bids.

Mayor Powell pulled this item and commended the Public Works Department and the Landfill Division for excellent work on the review of the bid documents. Jerry Ihler, Public Works Director, said the lowest responsive bidder, G.W. Van Keppel Company of Oklahoma City, had included a buy back policy in their bid, stating they would buy back this equipment after four years of service for \$96,000.00. Ihler said this money would be put toward the purchase of another piece of equipment at that time. Ihler said the repair costs and maintenance after four years on this type of equipment becomes a large amount and is pleased with the buy back policy. He said this would eliminate down time and substantial maintenance costs in the future.

MOVED by Shanklin, SECOND by Haywood, to approve Item 14. AYE: Shanklin, Patton, Haywood, Warren, Bass, Devine. NAY: None. MOTION CARRIED.

15. Consider approving contract change order for HVAC Services (RFPCL03-071). Exhibits: Department Recommendation.

16. Consider appointments to boards and commissions. Exhibits: Memorandum Parks and Recreation Commission - Rick Strickland; McMahan Auditorium Authority Bob Jordan, Dr. David Fennema, and Mary Jo Smith; Mayor s Commission on the Status of Women Glenda Casper.

17. Consider approval of payroll for the period of September 15 to September 28, 2003.

18. Consider approval of Minutes of September 23, 2003, Regular Council Meeting.

OLD BUSINESS:

19. Discuss procedures for water credit on construction projects, as defined under Chapter 22, Section 22-1-2-118, of the Lawton City Code, 1995. Exhibits: copy of existing code adopted in 1995, verbatim minutes of September 9, 2003, Council Meeting.

Shanklin said he brought this back from last meeting because of the credit that he was put under and he said he received a bill for \$208.00 after the \$25.00 credit had been exceeded. Shanklin said these apartments are not in a position to be rented and he balked at that and is still baulking because I don t think it is fair. I really thought when you look at the minutes that were in the last meeting it states, those minutes are just one page and if you will look at the four pages of verbatim attached to the item, and when I went to see Mr. Endicott about that that we had done away with the fee, he said it had not been done away with. The verbatim minutes at page 59 says, Vincent said he needed him to be specific what Devine was requesting. Devine said he wanted to eliminate the credit section and that s what we voted on. Shanklin said the credit section is gone, it is not to be modified and brought back we don t want a credit section, Am I correct on that.

Mitchell said that was correct, but the revised ordinance needs to be brought back and have the council approve the ordinance. The ordinance has not been changed there was only a vote to do away with the credit.

Shanklin said that is fine but the discussion with Mr. Endicott and in these minutes he says the way we are applying this, and this is our definition of the code, we would apply it for anybody, if we did not rescind this particular revision, the same way we applied it for any council member, we would apply it for a citizen. Shanklin agrees with that statement and wants to be treated as a citizen, so if you will look at this handout I gave you, it doesn t make any difference who this is, this individual has enhanced our area, our values of our property, it was done, I don t know who decided not to go along with the code, but they are to be commended. If you will look on the front page it shows his surcharge was \$36, he has 12 apartments. The capital gain of 3 times 12 is 36, this is in January 23, when he went down and opened an account, and you finally get over to 4-4 he made a payment of \$219,

if you look over to the right he started his deducts, he didn't pay his bill for two months, if you will look on the second page you will see he didn't receive any water in Jan, Feb, Mar, April, he had these water bills and the way the code reads, it is 12 times the money and we deviated from that and I admire that, but I don't know where they got the authority to do it, but let's do it for everybody.

If you go down to 4-22-03 they have reduced it to four, he had to get another building permit to complete the project. My only concern is that I think we did him right, I think we should do everyone this way. I paid \$433.47 for five apartments, that is how much the water cost me. And I still don't like it, but powers to be thinks that was the way it should be, is that right Mr. Mitchell, that I owed that.

Mitchell said that was correct. Shanklin said and that other guy is just the way the ball bounces. Mitchell said he did not know anything about that account, this was the first he had seen any information about the account, so he didn't know what this handout reflected. Shanklin said it reflected an account that was opened up on January 23.

Mitchell said but without going back and looking at the history and knowing the circumstances, he had no idea of knowing how the adjustment was calculated.. Shanklin said you do that and I expect to get a letter like Mr. Devine and Bass did that they were in error for even asking, but anyway, I still want to know how you got there and that again I think it was only fair that they did this individual this way, but we should have all been treated as such, so if we remember Ed Cagle came before us and told his dilemma and the Finance Director got back up and said sorry the code is the code and that is how we are going to do it, so if we are going to do the code, let's do it for every one, do it just alike. Mitchell said he agreed. Shanklin said let's don't deviate, even though this is user friendly and only fair, mine was not fair, I can pay the bill, I have already paid it, it is just the fact that I didn't like it and I still don't like it. And council if you don't have any questions, that's all I've got, I think that Mr. Vincent is coming with a revision, I don't know about a credit, we didn't go for that, but we are looking at somebody going to build 162 apartments, he will not be able to rent 15 or 20 of them on the construction, there will be a certificate of occupancy and whenever they are certified to be occupied, that is when they start getting a water bill for that unit, he may up to 80, but he will never be charged a 162 when he hadn't even started them, that is the unfair part about it (tape stopped here) to get that figure, now see they put, back on the front page add a surcharge of \$36 and \$36 and then they have all the deducts because when they finally went down there you will add all those up, it is a considerable amount of money, I think I had it we took back about \$600, we knocked off \$600 after you add all this up, he wasn't using it, he couldn't use it, but he was being charged for it, and thank heavens somebody did it, but I would just like to know how you got there since we can't deviate from the code. I don't want to lose my job I think the man said, I am not deviating from the code.

Vincent said Shanklin summarized the new ordinance and the one that Mr. Devine asked us to repeal affected two other sections of the code so we had to go back in and do a rewrite, and it will be on the next council meeting.

BUSINESS ITEMS:

20. Hold a public hearing and consider a resolution amending the 2025 Land Use Plan from Agriculture to Professional Office and an ordinance changing the zoning from A-1 (General Agricultural District) to P-O (Professional and Office District) zoning classification located at 8504 NW Cache Road. Exhibits: Resolution No. 03-____, Ordinance No. 03-____, Location Map, Site Plan, Applications, CPC Minutes.

Robert Bigham, Assistant Planning Director, said this is a public hearing to consider a resolution and ordinance amending the land use plan and the zoning of a request was for a 0.689 acre tract located approximately 1,988 feet west of the intersection of 82nd and Old Cache Road on the south side. The property owner, Dayspring Community Church, proposed to sell the tract to Dr. Scott Sullins, for a dentist office. Initially the church requested rezoning 1.38 acres which was proposed to be divided and sold as two tracts. Prior to the September 11 CPC meeting the applicant amended the request to include only one tract as shown on the location map.

The zoning of the surrounding area is A-1 to the north, south, east, and west. The land use of the surrounding area is agriculture to the north, south, east, and west and a single-family residence also located to the south. The current land use of the requested area is vacant agriculture. The church also proposes to construct a new church building to the southwest of the requested area. A building permit has been applied for and a foundation permit has been issued.

On August 14, 2003, the City Planning Commission opened the public hearing on this request. During the public hearing one person spoke against the request and one person spoke in favor of the request. Mr. Dennis Merrifield who owns property to the south of the requested area opposed the rezoning. Mr. Merrifield submitted a survey which indicated a 20-foot roadway and PSO easement to the west of Tract 1. Mr. Merrifield also stated he had a waterline which runs on the eastern portion of Tract 2; however, there is no easement for the waterline. Further research revealed a 10-foot PSO easement which bisects Tract 2. The CPC tabled action until September 11, 2003, to allow time for the applicant to resolve several issues that had been raised during the review of the request. The issues included water service, easements, platting, and encroachments. Prior to the September 11

meeting the applicant deleted Tract 2 from the request so that the request for Tract 1 which was proposed as the dental office could proceed. The church had no specific plans for Tract 2. On September 11, 2003 the CPC, by a vote of 4 to 3, recommended approval of the amended request just for the one tract.

Notice of the public hearing was mailed to three property owners within 300 feet of the requested area on September 23, 2003, and proper notice was published in The Lawton Constitution on September 28, 2003.

The requested area is not currently served by water lines and sanitary sewer. The applicant stated that a private sewer system would be used. The applicant has submitted a request to the council for the City to install a 12-inch waterline which was discussed at the September 23, 2003, council meeting and was tabled. The Public Works Department has submitted a memorandum stating they have been researching options to provide water to the west Lawton area with emphasis in the industrial area and will propose alternatives at the October 28 council meeting.

PUBLIC HEARING OPEN:

Denny Merrifield, 8510 NW Cache Road, just south of the property which they are talking about rezoning here. My concern, when I came down to the planning committee, I brought up about the easement rights and the utility rights and all this other stuff, traffic, and really the more I thought about this thing, the more concerned I got is that this is the biggest investment I have had in my whole life, five acres, land and a 3,000 square foot home. My wife and I have put everything into this home. I am concerned about, and I ask the City to consider looking at, the drainage issue. This area is in the flood zone. I had to have VA insurance, they required me to get very heavy duty flood insurance for this land and what I am concerned about, once they pass for an office building to be out there, it is going to be like cancer spreading, there will be another office building, or another something else building, it is going to be the land, once you start moving land around the water has got to flow south toward that creek behind my house. I just ask the City if you would just take into consideration to look at that and to address the drainage issue on this piece of property they are going to be moving. I met with Chris Stephens, pastor of the church, and the developer, and they assured me they were going to look at that problem to not go toward my home and I appreciate them looking at that and I would also like the city to look at it before they do any type of building out there and not only will that professional office building be moving around the dirt and also the church. That land sits just west of it and it sets on top of the hill, and when you start leveling out things, the water has got to flow south. I ask the council to reconsider the drainage issue if you would.

Shanklin asked where Merrifield's house was on the drawing. Merrifield said his house was just to the west of Holy Family Church. Bass asked if Cache Road was in the flood zone. Merrifield said it was. Merrifield said the diagram he received from the city showed the flood zone coming through tract 2 coming down that way to the creek. Merrifield asked before the city took a vote on this, to consider tabling it to investigate just to see that his property is not going to get flooded out with all the moving going on. Mayor asked which way the water was currently flowing. Merrifield said it was flowing south toward his home and said the water comes flying off that hill running between his pool and house through a natural drainage that follows through and goes south to the creek toward Holy Family Church. Merrifield said his log home sets at the bottom of the hill and you can just barely see the roof from Cache Road.

Merrifield said he knew he could not stop progress, knowing that he had the opportunity to purchase that land, but did not have the available money and knew he could not stop people from doing what they were going to do, but asked the council to help in the drainage issue. Merrifield said his main concern was the drainage issue.

Shanklin asked why a flood map had not been provided. Bigham explained the flood area to be to the east of the requested location.

Devine asked Bigham that before any permits be issued for anything to be built, the City is going to look into the flooding, retention and detention ponds, on that flood way before the permits were issued. Bigham said a process would be gone through before permits are issued. And said first of all, this land needs to go through the platting process to have the opportunity to look through the development plan where the drainage is going to go and how it is going to be approved, if it is required. Devine said this would be done before permits would be issued. Bigham said the second step would be the application for a building permit in which the flood management ordinance would apply and we do not allow any developments in flood ways, and flood friend, we do allow under certain conditions. Devine asked if this was what Merrifield was concerned about. Bigham said we do not have detention anymore. Devine said before that is developed it has to through plats. Bigham said that was correct, but looking at a .689 acre tract, a little over a half acre tract up on Cache road, about mile down to the Merrifield house, drainage is not generally considered on this small of a tract going that far out. Devine said that would be the most sensible thing to do to look to the future of what is going to happen when you start developing land like that. Bigham said they will look at the impact, but this small of a tract will probably not have that much of an impact, but it will be looked at in the platting process.

Mayor said in all fairness to everybody involved in this, what Denny said was, this might lead to others and then, it may not be this small tract that is going to create a problem, but in four small tracts, there is more concern.

Merrifield said that was his concern and if it wasn't for them wanting to rezone this, he wouldn't even be having this discussion, they would go on and put up their building out there because it is agricultural land and they can build the church, so they could be doing what they wanted to.

Shanklin said he could not vote on this issue until he saw the drainage as far as the flood way, whatever.

Chris Stephens, Pastor-Day Spring Community Church, and just to clarify a couple of issues, we withdrew the request to rezone tract 2, which is the one that dissected by that dotted line there, according to the documentation that we have, none of the twenty acres that the Church owns out there on Cache Road is in a flood plain. The flood plain connects to the NE corner of our property in the City's easement but all of the property that the church owns is outside the flood plane so the fact is that tract, and I have documentation here from Dr. Sullins, there is about a five feet drop west to east on tract 1 where the water will flow directly to the east down into the creek which is another 150 feet off of the eastern corner boundary of Day Spring's land so it is going to flow directly east into a creek and it should not even get back in that direction from, he passed a drawing around for council to review. The church building will be sitting about five or six feet above the road. The church is going to be built on the other side of his access easement. We are working in conjunction with a civil engineer to help be sure that we are doing everything we can to ease any water flow concerns on that property.

Bass asked about the water distribution issue and how they could even consider building until that issue had been resolved. Stephens said they were awaiting the council's recommendation and understood they could begin their process prior to having a water line.

Dr. Jay Scott Sullins, 12 Pecan Valley Drive, I just wanted to make himself available to answer any specific questions concerning future plans for lot 1. I have been practicing for about five years and my desire is to build approximately a 2200 square foot building in hopes to one day having an associate. This building would be an attractive brick and wood structure. I assume that with future plans of expanding the width of Cache Road, the development out there would be desirable and not necessarily a cancer. (could not hear question). Sullins said the water issue would be a big concern for him because the cost of the water line could preclude him if it was too substantial.

Bass said Ihler had an item to be heard at the October 28 meeting on the water issue, so if this is tabled to the 28th then he could explain to the Council what he thinks the answer is for the water problem, and would it be a problem if the item is tabled. Sullins said it would be no problem.

PUBLIC HEARING CLOSED.

MOVED by Devine, SECOND By Warren, to table this for two weeks. AYE: Patton, Haywood, Warren, Bass, Devine, Shanklin. NAY: None. MOTION CARRIED.

21. Hold a public hearing and consider an ordinance creating Division 2-3-6 of Chapter 2, Lawton City Code, which establishes the Historical Preservation Commission and provides for membership, terms, and duties and creates Article 18-10 of Chapter 18, Lawton City Code which establishes the Historical Preservation Overlay District as part of the zoning regulations and provides for codification. Exhibits: Ordinance No. 03-____, Draft CPC Minutes.

Bigham said several interested citizens had requested the City of Lawton adopt an ordinance to establish a historical preservation district and commission. In December of 2002 a committee was formed to include the City Planning Commission members and interested citizens. After many meetings a draft ordinance was presented to the City Planning Commission in August 2003. On September 11, 2003, the City Planning Commission held a public hearing on the proposed ordinance and, by a 6 to 0 vote, recommended approval to the City Council. Five people spoke in favor of the ordinance at the public hearing, and no one opposed the ordinance.

The proposed ordinance provides two major amendments to the City Code. The first is the authorization to create the Historical Preservation Commission to oversee the program, and second is to amend the zoning regulations to authorize the Historical Preservation Overlay District.

VERBATIM OF HISTORIC PRESERVATION COMMISSION DISCUSSION:

Devine: I cannot believe you are standing there telling us this does not involve Old Town North because that is the committee that got together with you to discuss this, am I right or wrong Mr. Bigham, isn't that what you .

Bigham: That was one of the discussion points for a long time and my point was..

Devine: That is not what I asked you, I asked you if this was not specifically brought to you by a group from Old Town North.

Bigham: One member of the committee lives in Old Town North, the other two do not.

Devine: But that is what is specifically brought to you for, wasn't it.

Bigham: I believe you are correct.

Devine: Yes sir, I am correct. That is what you told me, not more than two hours ago. Now, the next question is, I own property in Old Town North, yes, I want to see it cleaned up if this ordinance is passed and it continues on like it is, it means that I cannot paint my building without going to the committee and have them tell me what color I can paint it, or if we find a building in that area that is designated that needs to be put on D & D to be tore down, this ordinance would have to go through the committee before we could even touch it once it becomes a historical property, am I right or wrong.

Bigham: If the property has the overlay designation, your statements are correct.

Devine: So Council, this is some of the things you really need to consider about this before this ordinance is passed, because you are going to take and dictate to people as to what they can do to their property even though they do not want to change it to historical. There are a lot of new homes up there, where people have torn down old homes and built new beautiful homes in that area. Shanklin made the comment a while ago that he wanted to see it cleaned up and I agree 100% but I don't think we need to stop everybody up from doing anything to their house. This means, if you have a house, Mr. Bass made this comment, if you wanted to add a bathroom on to it, as long as it involved the exterior of that piece of property, you can not touch it without this committee approving it, am I right or wrong.

Bigham: In the overlay district there is a requirement

Devine: Again Council, that is one of the things you need to think about because you are going to start dictating to everybody who lives in Old Town North exactly what they can do to their property and they have to go through this committee to get it done.

Shanklin: First of all, Mayor before you do this, Old Town North begins on the west side of fourth street through the west side of Fort Sill Blvd from Gore to Ferris you are not in Old Town North.

Devine: But I am in the process of buying four houses over there and I don't want somebody to dictate to me what I can and can't do to those houses and that is exactly what you are going to do with this ordinance.

Warren: Asked for a point of clarification. If we pass this ordinance this is only going to give the council a future ability to create an overlay district, correct. And this does not create the overlay.

Bigham: I need to add there is a very important component to this that I need to point out to the council.

Warren: Simply by enacting this ordinance, we are not going to allow that to happen to any home without it coming back to council and saying, here is the district we want this approved, is that correct.

Bigham: Correct.

Mayor: Bob, the question I had, let's say a house in the area, Arlington, Bell, has historical value, two houses down does not, but because this one needs to be in the preservation and everything, does that mean the house two doors down they can't do anything.

Bigham: Let me focus on something that I said, I need to point something out and hopefully it will answer your question. Once Council so elects to adopt this ordinance to set up the authority to do this, then it spells out in here how a proposal is initiated. The thing I want to point out very closely is on Page 89, Section 18-10-1007, this section right here requires that as you look at a specific area whether it be Old Town North, Sneed Acres, Fields and Dunning, whatever, the regulations and criteria will be placed in that overlay ordinance that the council considers, so you will as recommended by the planning commission and the historic commission, there will be actual criteria in there specifying what they are going to regulate and what architectural standards they impose. There may be, for example and I may be stretching it here on your example, that there is going to be an addition of a bathroom in the back of the house that does not change the exterior appearance of the front side of the house that may not be considered significant to the committee and they may not want to look at it, I am just giving an example. But that would be in the adopting overlay ordinance, what criteria you are going to use.

Warren: In other words, Old Town North group would come to the Planning Commission and say we want this overlay district created and we don't want anything but shake roofs, and we don't want anything but the standard frontage of the house the way they are, anything else goes. Is that a good example, and basically everything else

goes. The Council would vote on that.

Bigham: The other architectural criteria may be as we look at the architectural layout of Sneed Acres, flat low pitched roofs, gravel on the top, that might be a historical feature if the overlay district is adopted there, then you would want to retain that. So if somebody came in and wanted to put a 12 12 roof on one of those houses, the zoning commission would say that is not appropriate. But that same regulation of the flat, rock roof would not apply in the North Addition, so each proposed overlay district is going to have its own set of criteria and that is a very important part of this and you don't have to take a whole area, that is going to be part of the discussion.

North Addition runs from Railroad Street to 11th Street that may not be the whole area Councilman Shanklin said Old Town North was from 4th Street, there is nothing in here that says you can't consider an overlay district from 9th street.

Shanklin: I would want to get that out, that it doesn't have to encompass the whole addition.

Bigham: It applies to any place in town, the criteria in the ordinance says this is the things we are looking for that would qualify an area for a historic preservation overlay district.

Patton: How do the folks who own homes within, let's say they go in and identify a certain area to say you know, we want to do a historical overlay in this area, who makes that initiative and what do the homeowners in that area do, do they have a voice?

Bigham: Said Page 91, Section 18-10-1012, there is the criteria for designation. You have to have these points in that area for it to be considered. Now simply stated, it will go through the same rezoning processes that we are accustomed to like the earlier item. There are some exceptions though, since this is some additional regulations on property instead of just sending regular mail to the property owner for notice purposes as we do now, on Page 90, there in the middle of the page, notice in the affected area will be given by certified, return receipt mail. So nobody will be able to say I didn't get notice of this or if we don't get the receipts back we can follow up on why the receipt was not returned. This is going to be an expensive process but we as Councilman Devine pointed out these are additional regulations and we want to make sure everybody has input on the development of the overlay ordinance.

Mayor: Bob, I think the question was, who is going to pay for this, not..

Bigham: It will be us, either the applicant or it is going to have to come out of the general fund depending on who initiated it.

Bass: If you are going to do a one block area, can you just pick one house out and say this is the house and say the rest is not in it.

Bigham: Possibly.

Shanklin: That is a very important question.

Bigham: You could go down to a single structure, but the intent is to preserve a neighborhood. Preserving one house in a neighborhood is not really the way to go.

Devine: You can already preserve one house now by going to the State Historical Society and give that one house designation, right.

Bigham: Right.

Shanklin: You can take one house and get it in the historical registry.

Bigham: There is no limitation on size of the overlay district. What I said was it is not very affective to do that because one house may be preserved at the willingness of the owner but it doesn't do much good to preserve the area if only one house is in this regulated area.

Shanklin: I have lost out, an individual can take it all the way to wherever it goes to have his house designated as historical, one single house.

Bigham: Yes. All I am saying is it won't fulfill the purpose of the ordinance in preserving a whole neighborhood.

Mayor: It is addressed on page 89, 18-10-1006, tracts, buildings, sites or area designated by City Council.

Bigham: Keyword, by City Council.

PUBLIC HEARING OPEN:

Mayor: This is a public hearing, at this time we are going to open it, Dr. Musslewhite has completed a form and would like to address the Council.

Dr. Musslewhite: I am Lynn Musslewhite, I am a member of the board of the Lawton Heritage Association which has been promoting this ordinance, retired member of the Cameron History Faculty and member of the committee who drafted this ordinance, I don't live in Old Town North, but let me say some words that might help us with this discussion. One, is that the oversight of these historic preservation overlay districts will be by a committee appointed by the Mayor and approved by the City Council, be made up of people with professional expertise and I think hopefully made up of people with common sense so that if someone like Mr. Devine approached with a reasonable request for improvements of his property, the historical commission I think would encourage that and not work to discourage those kinds of changes. I think the historic preservation commission would be in the business of trying to encourage people to improve their property in a historic district and not to limit people from taking action to improve the neighborhood. As Mr. Bigham has pointed out this ordinance does not specify a particular area it just enables citizens of different areas to apply for designation and let me expand that by saying historic preservation districts do not have to necessarily be districts that have been regarded as upscale districts. They don't all have to be heritage hills, they can be districts that are historic and significant to the history of our community which may house persons of low income, but that neighborhood may have played a role in our history and deserves to be preserved and if the citizens are interested in that designation, they can apply as well. So don't just think that this is a silk stocking ordinance intended to apply to only people of the upper level income. I think we need to be aware also that the initiative for creating these historic preservation districts will come from the people from within the neighborhood. They are the people who will come to the historic preservation commission and say we are from this area and we would like to have the protection that a historic preservation district can bring to us and it will be their initiative to create the separate districts.

Let me talk about some things that are not particularly covered by this ordinance and Mr. Devine mentioned house painting. The ordinance specifically says, ordinary maintenance or interior work on a home is not the business of the historic preservation commission so that if anyone wants to paint his or her house that is their business unless they choose to paint it purple or do something that destroys the character of the neighborhood, so that is not.

Haywood: Dr. Musslewhite, what part does State play in this, the State Historic Preservation, how do they play in this, what can they do. I know Central Junior Highschool has been added to the historic preservation registry. What part does the state play in Lawton Oklahoma. Do we have to put this on the books in Oklahoma City.

Musselwhite: The state historic preservation office served to advise us as we drafted this ordinance. But this is a city ordinance and it would be the city government affected by this, now, after this ordinance is adopted the City of Lawton can qualify as certified local government and at that point we become eligible for state funds, grant funds, and for tax incentives for rehabilitation restoration money. So the state becomes a partner in helping us and individuals rehabilitate and restore areas. As far as determining what takes place in Fields and Dunning if we designate that as a historic preservation district, the state doesn't have any particular role at all, that is our decision. They come in later and mostly as an advisory capacity to help us with funding and other kinds of incentive.

Let me say some other words about this, I think one thing we need to consider, this is not an experimental ordinance, 16 or 17 other communities in the State of Oklahoma have historic preservation ordinances and it is not just the big cities, like Oklahoma City and Tulsa, it is cities like Ponca City, Enid, Anadarko, those types of cities of that size. I think it is important to note that in city after city, the evidence shows, that historic preservation ordinances work, they encourage people to come into neighborhoods and invest in property, improve that property because the people who come into those areas know they have some protection for their investment. It is like buying into a neighborhood that has plat restrictions. People like those restrictions because they protect their property value. This can make our city a more attractive city, it can make it more attractive as a place for people to live, as a place for businesses to relocate. Once again, Lawton is the largest city in the State of Oklahoma that doesn't have an ordinance like this. It is time that the citizens of our community had the benefit that an ordinance like this can bring to us. It will make our city a better city and I urge you to support this ordinance.

Bass: If you had a house and you thought it was a historical site could you do all the research and send it to Oklahoma City and find out if it could be a historical site without having this committee at all?

Messelwhite: Yes. We worked with other cities when preparing this ordinance. .

Haywood: Is there a fee to pay with the State on this request?

Musselwhite: Yes, the fee is similar to any other zoning procedure.

Ron Wells: This is about preserving the very few historic areas left in the City of Lawton that have not been demolished, ruined, and in desperate need of rehabilitation. This is about preserving that little bit of history that

we have left for future generations not just to have a monument to look at in a park or read in a book or be lucky to see a picture of what is used to look like or what used to be there. This is education through preservation, and is about preserving our history and being proud of it and contributing to the State of Oklahoma and the history of our country. There are several reasons why a community establishes a historic district, a variety of reasons, some of them are to protect significant historic properties, some are to protect against a specific threat of development, while others use it to encourage development in older areas. Some communities use historic districts as a tool for maintaining and increasing property values.

Many communities establish historic districts to improve their image to their community as a whole, something this town needs, definitely. Many case studies have been conducted in several states and local communities throughout the United States including a study by the Department of Interior and many questions arose regarding property value increase, and what are the actual benefits of the historic district. Yes, is the answer. Property values do increase. The second question was, do they increase quicker in a historic district versus somewhere else in the city. Yes, they do. Property values increased more quickly in a historic district than other parts of the city. The advisory counsel on historic preservation issued a report identifying the contributions of preservation to urban revitalization and their list included the following, new businesses formed, private investment stimulated, tourism stimulated, increased property values, enhanced quality of life in a sense of neighborhood and community pride, compatible land use patterns, increased sales tax and pockets of deterioration and poverty diminished. Historic districts are economic growth for Lawton and this is vitally important to future economy, economically and socially because this will create jobs, provide safe and affordable housing. This isn't going to just create the million dollar historic mansions like you see in other parts of the city, it creates housing that everyone can afford. It maximizes public investments, and will build an infrastructure to provide a quality of life for Lawton citizens and bring visitors and their money to Lawton.

The preservation of Lawton's past is the most important to building the prosperous and sustainable future economy of this town. Lawton has wonderful diversity and historic places that can contribute to our economy through heritage, cultural and nature tourism, the three main tourism ideas. The establishment of historic districts in Lawton can then market tourism through neighborhood home tours, revitalization of our city, bring bed and breakfast industry to Lawton, we can offer cultural tourism through the many special events and festivals that are regularly scheduled such as Arts for All, the International Festival, Boulevard of Lights, all located on or near Lawton's historic Gore Boulevard which was established in 1920 as a city landscape beautification project. Soon the new Elmer Thomas Park will have an opportunity to market nature tourism which is also located on or near the historic areas of Lawton along with the McMahan Auditorium, Museum, and everything a tourist wants to see when they visit a place.

This preservation overlay will contribute to drastic changes in the community and the citizens of Lawton deserve the opportunity to reap economic and social benefits of historic preservation districts just like other major cities have been doing so for years. I spoke to an owner of Century 21 for more than twenty years, Mr. Jan Goodyear in Guthrie, Oklahoma, and he stated that in the last ten years, property values have more than doubled, and he was just amazed. The same results in Ardmore and Enid in their historic districts. The property values have significantly increased since the creation of the preservation overlays. Historic preservation tax incentives are yet another benefit having proven to be valuable tools in revitalizing communities and preserving historic places that give cities and towns their special character. The historic preservation tax incentive generates jobs both during construction phase and after with increased earnings. Rehabilitation of historic buildings attract new and private investment and is crucial to the long term economic conditions of many communities.

Wells: I know every member of the City Council wants the best for its citizens and the city to create jobs, to save its rapidly diminishing structures to increase tourism and put money in Lawtonian pockets, increase property values, create opportunities for the establishment of new businesses, give back to the community and further beautify the city as a whole. Please vote yes for this historic preservation commission, we really need this.

Mayor: Thank you very much. Is there anyone out there that would like to address this issue with something that has not already been said.

Earl Glover: I have a lot of questions since I found out about this and I have had some of them answered here tonight. To me, the people who lives, where we are talking about, and I have been informed would be Old Town North from 4th Street to Fort Sill Boulevard, is that correct, but it could go anywhere. Okay, if that is the case, then everybody and every property owner in an overlay district should have gotten a letter on what was going to happen and you can't put them all in city hall because they would have all been here because they don't want more people telling them what to do and the homes that are, that need to be in a historical district, they can ask, they can be on the state and national historical society and that don't bother this man's property and that don't tell one what you can do and what you can't do. You already have a Mayor and City Council, Planning Commission, Human Services, that take care of it. Who is going to furnish the money, I know where it is all coming back to, there will be a lot of federal grants and state grants and national grants, but you are jeopardizing the general public that owns property and lives there if you make an ordinance like this, in my opinion. How many homes, or property owners are in Old Town North, do you have any idea. The overlay, in other words, you can put it somewhere and add on to it, skip over it, like hop scotch.

Bigham: The overlay can be proposed by any individual but would have to be approved by the CPC and the City Council.

Glover: Yes, and in the beginning, the people that wanted it were from Old Town North or somebody had to bring it in and say this is what we want.

Bigham: This ordinance is not unique to any particular area. This ordinance will only create the process of housing areas to be considered for an overlay area and as the overlay is requested it could be expanded or decreased.

Patton: I just want to question a point you said, and I could be wrong, you say that if we sent out notices to everyone who was affected by this, the room would be packed by people who would oppose this, what I would want to know of all those people who are in the room, how many actually live in that area or how many just own property in that area, because I think that is a big difference between folks who own property there, rental property, and live somewhere else in town and from those who actually live there and who are actual home owners in that area, and I think that is something we could all ascertain once a jurisdiction is made. As I understood tonight, we are not saying this is for Old Town North, we are just putting a vehicle in place that if the folks in Old Town North are interested in doing it, let s not kid ourselves, they will probably be the first ones, more than likely, but if they do come to us with this, then everybody, just like you say in that area, will be notified. Bob said earlier, by certified mail, something at a higher level of notice than a regular zone change and that would enable every interested party to come up here. I could be wrong, we may have this place full of actual homeowners that live there that really are against this, and personally I might feel differently about granting that, but in my personal opinion I think that the most people that are going to be upset about the whole deal are the folks that just own property there and don t actually live there and I think you really have to give the nod to the people who actually live in those areas and that is their home and not just a piece of property to give them income, which is fine, I don t have anything against rental property, I think it is great, that is just what I think about it.

Glover: I have seven houses that is in Old Town North that don t belong to me, they belong to my sisters and they live in five of them, nephew and niece live in another, and they are property owners and they don t know anything about this.

Patton: If they were in fact in an area that would be affected by the, all we are doing today is setting up a vehicle for that to be done and if they are in that affected area, then they will be notified by certified mail.

Glover: Then it is too late, it is after the fact then.

Mayor: What this is about this evening, is just a vehicle should that happen, now then in order to make something happen then this commission would be appointed, whatever area of town, they would come to that commission and would say we would like to see this happen. Then that area that is affected they would be notified by certified mail, is that correct, and would have to sign for notifying them they would be affected and this is what is going to happen and the issue would be addressed at such and such meeting. There will be no action happen tonight on any part of Lawton, Oklahoma.

Warren: We are just buying the car tonight, we will decide where we are going later.

Mayor: That is all it is about.

Glover: Then later, when you get the certified letter, the commission is done in and they can tell them, we are taking this property is that right.

Mayor: No. It is just a simple notification that this is the area that is going to be affected, we want to hear from you. And that is the night this chamber will be packed with those people you are talking about. Either in favor of it or opposed to it.

Sue Nell Breeze: 302 Fort Sill Boulevard and 212 Fort Sill Boulevard. I would ask the Council not to put these two properties in the district when you do this, we do not want to be included in the historic preservation district.

PUBLIC HEARING CLOSED.

Mayor: Public Hearing is now closed, we have had a lot of input. Mr. Vincent has a couple points of interest and we just need a yes or no. Mr. Bigham will you come up please.

Vincent: Page 89 Bob Section 1009, as I read that section on a property adjacent to a district if one is created you are imposing a screening requirement for existing properties.

Bigham: That is correct.

Vincent: So you are going to an existing property there is a house that is not in the district that is not currently screened and you are going, if the district is created right next door, you are going to make a screening requirement on the existing property owner.

Bigham: That is correct.

Vincent: I have a problem with that.

Shanklin: Say that again, if I live next door you are going to screen me off.

Vincent: The way this reads, you are going to pay it.

Shanklin: I am going to pay it to screen off who.

Vincent: You are going to screen off yourself from the district if you are adjacent to it the way this is written.

Mayor: Page 89.

Bigham: The way I interpret that would be like the screening requirements that we have in the existing code right now, if we have a situation, example let s say we have a C-5 commercial area abutting residential, if the C-5 is vacant there is not a requirement for the fence, but when that C-5 property is developed or approved, it has to be brought up to code, this setting up that requirement when you have an improvement to where that property has to be brought up to code, the screening requirement is there.

Vincent: That is not the way this reads, what it says, this required screening or design is specifically made applicable to all properties and uses whether coming into existence prior to the enactment date of the code or subsequently coming into existence. So if it is in existence now and you put the overlay district on, the way it reads the person that owns the property that is not in the district has to screen themselves from the property that is in the district.

Bigham: I stand corrected, I forgot about that last sentence.

Shanklin: You are satisfied that that is what it means.

Bigham: Yes.

Shanklin: That doesn t even make sense.

Vincent: The other question I have Bob is the use of CDBG money for demolition as used from time to time, as I understand the CDBG regulations, if there is a historic overlay district you cannot use CDBG money for demolition of properties in that area.

Bigham: We did address that in CPC, what that is saying, that is going to require that if you use federal dollars you are going to have to go through the section 106 requirement and that will bring State Historic office into play. What that is saying is those CDBG dollars will have to meet the criteria of the zoning commission. It may be more expensive to do that.

Mayor: Ed is shaking his head yes, that you are right. Okay, we have had a lot of discussion, a lot of information. This will be ordinance number 03-44. Desire of the Council

Shanklin: Council, I don t live in Old Town North, I have lived there, but I have lived in Ward 5 as you could say, all of my life. All we, they, us, are trying to do is to combat the ever approaching westward movement, trying to preserve downtown, trying to get people to come back downtown, we have the hotels, motels, all your federal building, post office, the banks, the mall, schools, all we really want to do is give us a chance to recover what, and I am not for all of this, I am not saying that, but it gives us a chance to be a little more fluent looking if that is the word, people will be more concerned about their properties, some of them aren t, I listened to them tonight, some of them could care less, I understand that, but that is their prerogative, and I don t mind that either. But I couldn t see them having to fence themselves off, but I would like us to pass this and if you will look at the six criteria for the members, those people are not even going to be from Old Town North if that is what you are worried about. There may be one of two. They are not going to be from there and all this is doing is giving us a chance to find out whether or not we can really get to the point that we can have the pride that all of these other communities have and we are the largest one that doesn t have one.

Warren: When you make your motion would you cut out 18-10-1009.

Shanklin: I am making my motion now, but I want to cut out 18-10-1009. Yes, sir. I make the motion that

MOVED by Shanklin, SECOND by Patton that we accept this ordinance and leave out 18-10-1009, leave out the screening.

Vincent: Do you want to leave out the whole thing or just the last sentence.

Mayor: The last sentence is really what affects this, just the screening.

Shanklin: I want the screening struck, I want that struck out of there, for the time being until we get a little more knowledge and understanding.

Vincent: So, you want a motion to approve the ordinance as written except you want to delete the last sentence of 18-10-1009.

Bass: Why don't we just table this until they get it all figured out.

Shanklin: That would be easy to do because you really haven't done anything.

Mayor: I did hear a motion and I do hear a second.

Vincent: (title read aloud) Ordinance No. 03-____
An Ordinance creating division 2-3-6, Chapter 2, Lawton City Code, 1995, establishing the Historical Preservation Commission; creating Article 18-10, Chapter 18, Lawton City Code, 1995, establishing the Historical Preservation Overlay District; providing for severability; and providing for codification.

VOTE ON MOTION: AYE: Haywood, Warren, Shanklin, Patton. NAY: Bass, Devine. MOTION FAILED.

Mayor: Did you tell me that had to have five affirmatives to pass.

Vincent: It failed.

Shanklin: So it will come back the next council meeting.

Vincent: It can, sir. One of the affirmative voters can bring it back.

Shanklin: It will

Mayor: Let me explain what just happened. There had to be five affirmative votes for this to pass this evening so it did fail this evening.

22. Consider setting a date of November 25, 2003, to hold a public hearing and consider an ordinance closing a 10-foot public utility easement in Block 2, Moore Addition located at 2104 and 2106 NW Oak Avenue. Exhibits: Application, Location Map, and Council Policy 5-1.

Vincent said some legal issues have come up on this matter and suggested this item be struck until they have been resolved. Mayor said he had been asked to read the titles of items to be pulled or stricken and Item 22 has been stricken from the agenda.

23. Consider adopting an ordinance pertaining to Smokefree Public Places and Workplaces, repealing sections 15-4-401, 15-4-403, 15-4-404, 15-4-405, and 15-4-406, and amending section 15-4-407, Chapter 15, Lawton City Code, 1995, providing for severability and declaring an emergency. Exhibits: Ordinance No. 03- **44**.

Tim Golden, Human Resources Director, said on September 1, 2003, the Oklahoma Smoke free Public Places and Workplaces Law became effective. If you read that law the gist of it is they want to protect the rights of non-smokers from second hand smoke and believe the proposed ordinance choose those objectives for the municipal buildings within the City of Lawton. The proposed ordinance accomplishes three things 1) designates each municipal building as a smoke free site; however, it does contain a provision that enables the City Manager to designate a smoking room in each building provided that smoking room meets certain criteria as specified by the Oklahoma State Law. 2) The proposed ordinance prohibits smoking within twenty-five feet of the entry/exit way into each municipal building as prescribed by state law. 3) It prohibits smoking in city owned or leased vehicles if a non-smoker is present inside the vehicle.

The designated smoking room must be fully enclosed, directly exhausted to the outside, under negative air pressure so smoke cannot escape when a door is opened, and no air is allowed to recirculate to non-smoking areas of the building. No smoking room exhaust shall be located within 25-feet of any entrance, exit or air intake. No

public business or work shall be conducted in a designated smoking room. The proposed ordinance also prohibits smoking in city-owned or leased vehicles unless all occupants in the vehicle are smokers.

Golden said the proposed ordinance mirrors the Oklahoma State Law and sets forth the procedures that the City Manager shall use to designate smoking rooms. This proposed ordinance preserves the rights of non-smokers while simultaneously accommodating smokers. Staff agrees this is a good ordinance that respects the rights of non-smokers and also allows accommodation of smokers and we recommend approval of the ordinance.

Devine said if we pass this ordinance is the city going to have to fund the modifications to the smoke room and is an equal amount of money going to be spent on a break room for non-smokers. Mitchell said funds would have to budgeted if improvements were to be made to a room modification, funds would have to be allocated and said he would be very judicious in making such a decision.

MOVED by Haywood, SECOND by Devine, to adopt Ordinance 03-44 providing for severability and declaring an emergency.

(Title read aloud) Ordinance 03-44

An Ordinance Pertaining To Smokefree Public Places And Workplaces, Repealing Sections 15-4-401, 15-4-403, 15-4-404, 15-4-405, And 15-4-406, And Amending Section 15-4-407, Chapter 15, Lawton City Code, 1995, Providing For Severability And Declaring An Emergency.

VOTE ON MOTION: AYE: Warren, Bass, Devine, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED

24. Consider adopting an Ordinance amending Section 22-104A, Chapter 22, Lawton City Code, 1995, adding a provision relating to waiving a late fee penalty on utility accounts, providing for severability and declaring an emergency. Exhibits: Ordinance No. 03- 45 .

Rick Endicott, Finance Director, said the City Code required a late fee penalty be assessed on all utility accounts that are not paid in full on or before the due date or a 10% penalty is added to the bill and he said he realized that circumstances arise which might cause a customer to pay late. This Ordinance would allow the Finance Director to waive penalties on an account that had a consistent timely pay record over a 12-consecutive month period the penalty shall be waived one time during that period. The customer s pay history record would not be changed, meaning the current late payment would be recorded; however, the penalty fee would be waived.

Endicott said some weeks ago Ed Cagle came before council who had received a penalty at which time council showed interest for provisions to be added in the code to allow for penalties to be waived in certain circumstances.

Endicott said this penalty would be waived one time in a twelve month period and the request would have to be made by the citizen to the Finance Director as the computer system will not automatically make such adjustments and the citizen would have to make this request prior to cutoff. If the service had been cutoff this provision would not be in affect.

Shanklin referred to Section B as indicated on the ordinance regarding the renewal annually by each applicant during the month of May and asked what the circumstances were if this renewal was not completed in May and if the City informed them of the renewal deadline. Endicott said this was not a new provision and had not been modified and the only modifications to this section of the code is in Section A as indicated by the underline. Shanklin asked if notification was mailed to these individuals each year regarding the deadline date. Endicott was not sure of the procedures on this notification but would research it and provide an answer. Shanklin was concerned about the notification process and said it was not fair to discontinue this benefit if the city did not notify these customers of the cutoff date. Endicott said notification would be a difficult process as he didn t have the manpower to do so at this time.

Patton said the word consecutive needed to be added in Section A of the underlined text as he didn t want there to be an implied statement in this section of the code.

Vincent said as he reads Section B of the code, and they don t reapply each year, once they realize they missed the reapply date they can come in and reapply for this service. This is not a good situation but they are not terminated forever from this benefit.

Shanklin referred to Section F and said he thought if you put your payment out in the drop box once retrieved by the office clerk that payment was considered the day before. Endicott said that provision had been changed some time ago. Devine said if you make your drop at 5:15 pm and the day doesn't end until 12:01 am and those who work and can't get there before 5:00 pm that payment should be posted on the previous day's business. Endicott said the drop box is picked up four times each day.

Mitchell said this provision was changed about one year ago because the city was experiencing trouble regarding cutoff notices and late payments, citizens would drop payments in the drop box and our employees would be out the next day cutting water off the issue arose about when they paid it, what date they paid it, so council revised this ordinance. Endicott said the runs are made regularly each day and the office is staffed until 5:30 pm each day.

Mayor said action could not be taken on this particular part of the code but could be brought back at a later date. Mayor asked Endicott for clarification on the request of the citizen. Endicott said the request had to be made prior to cutoff where a bill is due twenty days after it is received by the citizen and said this provision would not have assisted Mr. Cagle on his situation.

MOVED by Patton, SECOND by Bass, to adopt Ordinance 03-45 and insert the word consecutive before 12 months, providing for severability and declaring an emergency.

(Title read aloud) Ordinance 03-45
An Ordinance pertaining to utilities, amending Section 22-104, Chapter 22, Lawton City Code, 1995, adding a provision relating to waiving a late fee penalty, providing for severability and declaring an emergency.

VOTE ON MOTION: AYE: Bass, Shanklin, Patton, Haywood, Warren, Devine. NAY: None. MOTION CARRIED.

25. Consider adopting an Ordinance amending Section 22-115A, Chapter 22, Lawton City Code, 1995, adding a provision relating to refunds of deposit on utility accounts, providing for severability and declaring an emergency. Exhibits: Ordinance No. 03- 46.

Endicott said the City Code required each utility account customer to pay a cash deposit as stated in the above Section and said there was no provision to refund the deposit and one of the first changes recommended for deletion indicates the minimum deposit is \$40.00 this had become nonapplicable since water deposits are calculated at one-half (1) times the average monthly bill which is around \$57.00. Endicott said up to 1999 the city did refund deposits but was later changed and said customers are very interested in having their deposits refunded as this is a practice of Public Service and Arkla who apply them to the customer's bill. Endicott said our computer system has not been set up to do this service but he would be working with computer services to have this implemented but has been told it can be done within two weeks to one month, but cannot be done soon enough to refund the first run of deposits. This amendment would provide for a refund of an account deposit upon completion of a good pay record after a period of 12 consecutive months.

Endicott said the utility deposit account currently had approximately a \$900,000 balance and interest is accrued on this balance and as of October 1, 2003, records indicated approximately \$102,067.62 was available to be refunded to customers immediately and then refunds would be made monthly thereafter for customers with a good pay record for the previous consecutive twelve (12) months.

MOVED by Shanklin, SECOND by Patton, to adopt Ordinance 03-46 and change the deposit amount to \$60.00, providing for severability and declaring an emergency.

Endicott asked clarification on the deposit amount and Shanklin said it would soon be \$100 if calculated at one-half (1) times the minimum bill.

(Title read aloud) Ordinance 03-46
An Ordinance pertaining to utilities, amending Section 22-115, Chapter 22, Lawton City Code, 1995, adding a provision relating to refund of utility deposit, providing for severability and declaring an emergency.

VOTE ON MOTION: AYE: Devine, Shanklin, Patton, Haywood, Warren, Bass. NAY: None. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Status of Water Service to Properties on NW Cache Road between NW 82nd Street and Goodyear Boulevard.

Jerry Ihler, Public Works Director, presented a status report addressing the recommendation that would be

presented at the October 28, 2003, meeting.

Verbatim of Public Works report

Shanklin: How are you going to fund that and not do it on the east side and other areas and pass anything. You won't get it passed.

Ihler: I have been asked to give a brief status report on how we are going to address or what our recommendation is going to be to you at the next council meeting with regard to providing water to west Lawton. Basically, as it exists today we have the west high zone that is serviced from the tower on 82nd Street, blue tower, we have a boundary here that shows the area that we service or could serve and then it is everything east of 82nd Street all the way to portions just west of 52nd Street is serviced by the west industrial tower. And then we have the area that could be serviced by the industrial high zone indicated in blue. It became apparent that if we were going to service the areas that are going to develop that we recently annexed to the north all the way up to Rogers Lane and to the west to include North Pecan Valley and South Pecan Valley and that area to the south of Pecan Valley as we want to service that, the best way to service that entire area is from the industrial tower.

We currently have the 18 water line that comes from the 67th Street pump station number 1 and the 7 ml gallon storage tank, we have a pump station that pumps water through an existing 20 water line that comes to this location then drops down to an 18 line crosses to the north side of the road and fills the checkered tower that serves the industrial park. We are going to be proposing to you to go ahead and look at changing our philosophy with regards to the industrial tower and be able to service everything in this area to the north as well as the industrial area to the south and increase our capacity for the industrial park from 5 ml gallons a day to about 10 ml gallons a day by increasing the size of this line from pump station number 1 from that 18 and 20 to a 24 and tie it into the tower. We will also require an additional pump which we have left room for, an additional pump when we constructed the new pump station number 1 recently here, that was accepted about six months ago, so we would add an additional pump, increase the line capacity from that 18 restriction to a 24 to the industrial tower and that would increase the capacity to the industrial area from 5 ml gallons a day in the current pump to about 10 ml gallons a day. The philosophy change would be that we would also service those areas that could develop as residential in addition to the industry park, but we would ask that you limit the number of customers, limit the number of taps, in other words, don't allow individual home taps to the new 24 line but tap it with a 12 in an area and then the people that need to tie off of that would tie into the 12 and not off the industrial line.

We would construct this 24 and then what we would do to be able to service the Day Spring Church, we would have them tap the existing 18 which services the industrial park. We are going to do a flip flop, instead of constructing this new 12 that would run down and service this residential area we have been discussing and the church, we will construct a 24 to the tower, expand our industrial capacity, and be able to serve that four square mile area from the checkered tower, and then flip flop and the existing 18 would now become what would have been that 12 to serve that area for the low zone.

Mayor: You are talking about that 18 that is on the north side and these people that are requesting could tap that line now.

Ihler: Yes, they could go out and tap that 18 now, but we are recommending constructing this 24 line in two phases and the first phase take that 24 pickup where the 18 is now and construct a 24 on the south side and tie it into the tower and utilize it, because we are expanding the industrial park capability, utilize the economic development fund from the 2000 CIP to construct that 24 in phase one. Phase two would be to come back and construct from the pump station to 82nd street the 24. The reason we recommend splitting in two phases is because there are not enough funds in the economic development fund to do that in the 2000 CIP. We would ask that you consider funding from the pump station 1 to 82nd Street in the next CIP which would go to the vote of the people in 2004.

Bass: Asked Vincent if there was a way we could put something in writing that nobody could tap onto this 24 line instead of having to second guess that some people can and some can't.

Vincent: Said it could be put in the ordinance creating the funding mechanism for this line.

Shanklin: An ordinance can be changed by who ever sits here.

Vincent: That is correct, sir.

Bass: I suggest that we do that if we decide to do it, and if they want to change it later they can.

Ihler: And we would recommend that from the pump station out to this area where the west high zone would end, but beyond that, now we are saying that we are going to have to service that entire area from that industrial tower, but we would like to ask that the individual taps be limited, don't allow an individual, one resident or one commercial, tap it with a 12 to service the area and then those individual taps would be tapped to the 12 that comes off of the industrial line and then as it relates to the church we would ask that the church construct a 12 or

whomever wants to develop, tap the 18 now with a 12 and come underneath Cache Road and they could service the church.

Warren: This basically kills two birds with one stone, it gets us the residential-commercial water we need right there, plus, if I am not wrong, if Bar S, Republic or Goodyear were to expand, we are basically out of water for the industrial park without doing something like this.

Ihler: We have a little bit of room for growth in that we did that pump station number 1 in the last CIP that doubled our capacity and got us to 5 ml. The current peak demand that has been utilized this summer has been about 4 ml gallons a day, it doesn't allow for much growth now. This would kill two birds with one stone, we would be expanding our capacity to feed the whole west side as well the industrial park because if we were to have residential development for that which is not in the industrial park right now, it would probably utilize about 2 to 2 ml gallons so there would still be an additional 2 to 3 going to the industrial park.

Devine: Hadn't this group wanting the water out there, have they made a proposal to you giving any easements.

Ihler: As part of this what we are going to be bringing to you, in exchange for the city constructing this line to service this area, we would ask the developers and property owners along the south side where the 24 will be constructed to donate 27 feet of right of way for two things, 1) for the construction of the 24 line and also future expansion of the road from two lane to five lane. And the reason we would ask for 27 feet versus 17 feet would be typical as we have been doing these expansions to five lanes on 38th Street and Flower Mound Road, we have found that a 100 foot right of way is not enough because we have been needing about 120 feet because of what happens, like on 38th Street, as we construct the road, we have to relocate the water line outside that ten feet. So if we get the additional 10 feet now for a total of 27 feet we would construct that water line in the outside 10 feet and we would never have to relocate the water line when the road is expanded to five lane.

Mayor: A full report will be given at the meeting on the 28th. Any immediate questions you need to ask.

Shanklin: Have we furnished the trunk lines for other subdivision developments.

Ihler: Subdivisions, not that I am aware of. As we are proposing, this 24 line will actually be used for the industrial park and all of west Lawton with the majority of the water increase going to the industrial park.

Shanklin: But other developers had to pay for their trunk lines and these won't have to is that what you are saying.

Ihler: That is up to council, as we bring forth the item next week, if you want to ask them to donate the right of way in addition to the right of way to provide a cost share, you could do that. That is your decision.

Shanklin: I don't see how we can, how you are going to get by with that and pass anything if you are not going to do it for everyone else, I am just telling you. There is going to be a fight and I am going to be out in the middle of it.

Mayor: Any other questions, let's now go to the reports.

End of Verbatim

Other Reports from Council and Staff:

Haywood said Mr. Gunner lost his wife who last taught at Hoover Elementary Music and PE, and this will be a loss to our community.

Shanklin thanked Electronics for the repair of the lights on Fort Sill from Gore to F Avenue and said traffic is moving more smoothly and a left hand turn can now be made going west and said the water bill had been reduced from 4,000 to 1,000 and wanted to know how this was done at a nursing home.

Mitchell said there is a tentative meeting with the Chamber of Commerce for October 27 to talk about a Fort Sill land conservation project that is being proposed. This meeting will be in Altus with dinner following the meeting. A special council meeting may be called sometime next week to talk about a change in our ordinance with respect to large volume water customers.

Jerry Ihler introduced Carl Dentler as the new Assistant Director of Water/Wastewater replacing Ronnie Graves and he has over thirty years experience in the water/wastewater area as well as has been the public works director in a couple of communities in Oregon and Iowa.

Endicott announced to council and citizens that the License and Permits operation has moved to the License and Permits Center in Building Development and signs have been placed throughout the building for customers.

Mayor said the fish fry will be tomorrow at Lake Helen at 2:00 p.m.

BUSINESS ITEMS:

26. Pursuant to Section 307B(4) Oklahoma Statutes, consider convening in executive session to discuss Case No. CJ-2002-1200, First Union Home Equity Bank vs. Aaron B. Green, et al., and Case No. 03-16433BH, In Re: Donna Kay Green, and if necessary, take appropriate action in open session. Exhibits: None.

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

The Mayor and Council convened in executive session at 8:40 p.m. and reconvened in regular, open session at 8:45 p.m. with roll call reflecting all members present.

Vincent reported on Item 26 by reading the agenda item title and stated executive session was held to discuss Case No. CJ-2002-1200, First Union Home Equity Bank vs. Aaron B. Green, et al., and Case No. 03-16433BH, In Re: Donna Kay Green, and said no action required on this item.

Mayor asked council their preference of time on the special meeting and council indicated 9:00 a.m. would be best.

There being no further business to consider, the meeting adjourned at 8:47 p.m. upon motion, second and roll call vote.