

MOVED by Devine, SECOND by Patton, to approve all claims in item 2 as recommended by staff. AYE: Shanklin, Patton, Haywood, Warren, Hanna, Devine, Ewing-Holmstrom. NAY: None. MOTION CARRIED.

3. Consider accepting one third (1/3) of \$13,000 as settlement of our subrogation interest as a result of the City's payments under the Oklahoma Workers Compensation Act in case number WCC#99-18830, Stacey E. James v. City of Lawton. Exhibits: None

4. Consider ratifying the action of the City Attorney and City Manager in not making an appeal in the Workers Compensation case of Domingo Martinez in the Workers Compensation Court, Case No. 2001-14042-K. Exhibits: None

5. Consider accepting a grant for football equipment from the National Football League and National Recreation and Park Association. Exhibits: Grant Request Application.

6. Consider awarding contract for Sodium Hypochlorite (CL04-019). Exhibits: Department recommendation and Abstract of Bids.

7. Consider approving the following contract extensions: LED Lens Assemblies (CL02-070) with Consolidated Traffic Controls, Inc.; UHF Portable Radios with Lawton Communications (CL02-027) and Radios (Mobile Radio Equipment Only) with Lawton Communications (CL02-024). Exhibits: None (Contracts, information from previous bid award, and letters of staff recommendations on file in Financial Services Office.

Vincent said there was a potential conflict of interest but approval is recommended as presented.

MOVED by Warren, SECOND by Haywood, to approve as written. AYE: Patton, Haywood, Warren, Hanna, Devine, Shanklin. NAY: None. ABSTAIN: Ewing-Holmstrom. MOTION CARRIED.

8. Consider appointments to boards and commissions. Exhibits: Charlotte Oxford, Charles Webber, Sally Herzig to Lawton Human Rights and Relations Commission; Terry Jones to Lawton Housing Authority.

9. Consider approval of payroll for the period of October 27 to November 9, 2003.

10. Consider approval of Minutes of October 22, 2003, Special Meeting, and October 28, 2003, Regular Council Meeting.

OLD BUSINESS ITEMS:

11. Consider approving an ordinance amending Section 17-3-4-333 14., Chapter 17, Lawton City Code 1995, redefining member's accumulated contributions; providing for severability and declaring an emergency. Exhibits: Ordinance No. 2003-____.

Deborah Jones, Chairman of the Pension Trust for the General Employees, said as requested at the last meeting she provided supporting documentation to council members under separate cover.

Dave Truitt, 108 SE Brookshire Way, said he still felt this change would hurt the general employees as he understood it, the proposed action to lower the interest rate paid on the employee's portion does not insure a maximum principal and said this change needed an in-depth study and the EAC needed a clearer picture of the situation as he felt they did not have a clue of what was going on with this plan and said before anything should be done the actuary should be more complete and asked why the commission desired to fix something that was not broke. Truitt gave an example of a G6 employee's earnings at a rate of 3% versus 6%.

Jones said at the current rate, some years the plan would make more money and some years it would make less and this earning would only affect those employees who leave the system and take their money out of the plan. Jones said it was the goal of the Trust to maximize the amount for the pensioners and said it was the goal of the Trust to make as much money as possible.

John Thomas, EAC President, said this change was not to hurt the pensioners and that he believed the economy was on its way up and that the plan was to satisfy the pensioners. Thomas said when the interest rate goes up Council could revisit this item to request an increase on the amount of interest being paid to the plan. Thomas said a general employee meeting would be scheduled to explain the affects of this change.

MOVED by Hanna, SECOND by Shanklin, to schedule an employee meeting to discuss the recommended changes and revisit this item after that meeting. AYE: Haywood, Warren, Hanna, Devine, Ewing-Holmstrom, Shanklin, Patton. NAY: None. MOTION CARRIED.

BUSINESS ITEMS:

12. Consider approving a water contract amendment, #P00040, to the Fort Sill water purchasing agreement, #DABD05-70-C-3508, which establishes new water rates for FY 2001-2002, FY 2002-2003, and FY 2003-2004; and authorizing the Mayor to execute the proposed contract modification. Exhibits: Fort Sill Water Service Modification-faxed October 31, 2003; Chart showing history of Fort Sill Water Rate November 1, 2003; Summary of Water Rate Negotiations-April 2003; Manager letter outlining water delivery cost-October 23, 2003.

Larry Mitchell, City Manager, said the Lawton Water Rate Committee initiated a series of meetings with Fort Sill representatives in October of 2002 when the City discovered that the current water-purchasing contract had expired in June of 2001.

During the following six months, the two parties exchanged correspondence regarding the water contract rate factors, how the various costs and improvements were identified, and how those factors related to the water delivery charges to Fort Sill. In late April of 2003, the representatives from Fort Sill and the City of Lawton reached a tentative agreement on the actual cost of water delivered to Fort Sill and the resulting rate to be charged by the City of Lawton for FY 2001-2002, FY 2002-2003, and FY 2003-2004.

The new water rate of \$.66 per thousand gallons was established for the three years in question which was an increase of fifty percent (50%) over the previous rate of \$.44 per thousand gallons. The overall rate adjustment for the above cited period is a one-time payment of \$559,391.48 that includes \$79,126.58 for the first three months of the City's current fiscal year (FY 2003-2004). The net revenue realized by the City of Lawton for the previous two year period is \$480,264.90 which represents an unexpected, unbudgeted receipt to the General Fund of the City and said a rate structure had been formulated to help the City in projecting water costs. Mitchell expressed thanks to several members of the council and all who had a hand in these meetings to accomplish a goal that had not been reached in the past.

MOVED by Ewing-Holmstrom, SECOND by Patton, to approve the Fort Sill water service modification #P00040 and authorize the Mayor to execute the water contract amendment. AYE: Warren, Hanna, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

13. Consider entering into an agreement with Cox Development Company of Lawton, Inc. to outline the steps necessary to remove a dedicated detention structure from Lot 29, Block 6, Heritage Hills Addition, Part 2, construct a drainage structure for dedication in lieu of the detention structure, close a five-foot utility easement on the north side of Lot 13, Block 6, vacate the City's interest in Lot 29 and all utilities companies' interests in the five-foot utility easement on the north side of Lot 13 and replat Lots 11 through 29, Block 6. Exhibits: Agreement and Location Map.

Deborah Jones, Assistant Planning Director, said Cox Development Company of Lawton, Inc. (Cox) desired to remove the detention structure constructed in 1999 and build a new drainage improvement to be dedicated to the City in order to sell Lot 29 which is part of an overall revised development plan to replat Lots 11 through 29, Block 6, to enlarge the size of the lots to be sold.

This plan would also require the closure of a five-foot utility easement on the north side of Lot 13 and in the replat would provide a new five-foot easement on the south side of Lot 12R. The agreement outlines steps to be completed by both Cox and the City to complete the replat and sale of Lot 29 for redevelopment.

This agreement ensures the public will be protected from the removal of the detention structure by requiring the construction of the new drainage facility and dedication prior to removal of the old pond. All costs related to the revised development plan (replat) for Heritage Hills Addition, Part 2 would be the responsibility of the developer and the City attorney's office reviewed the agreement.

MOVED by Ewing-Holmstrom, SECOND by Haywood, to approve the agreement as recommended. AYE: Hanna, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren. NAY: None. MOTION CARRIED.

14. Consider setting the date of December 16, 2003, to hold a public hearing and consider an ordinance closing a 5-foot utility easement on Lot 13, Block 6, Heritage Hills Addition, Part Two, located at 1621 NE 35th Street. Exhibits: Application, Location Map, and Council Policy 5-1.

Jones said an application to close a 5-foot utility easement located at 1621 NE 35th Street (Lot 13, Block 6, Heritage Hills Addition, Part Two) had been submitted by Cox Development Company of Lawton, Inc. Cox Development Company had also submitted a replat of Lots 11 - 22, Block 6, Heritage Hills Addition, Part Two, which would increase the size of the lots. The purpose of this request was to move the street light to the south approximately 40 feet to correspond with the new proposed lot layout and all lots involved in the proposed replat are currently vacant.

The applicant had been informed that relocation of the street light would be at its expense. If the Council approved an ordinance closing the requested area, the applicant would petition District Court to have the easement vacated.

In accordance with City Code and State Statutes, written notice must be given at least 30 days prior to the public hearing to the property owners within 300 feet of the requested area and the private utility companies and a notice published in the newspaper at least 10 days prior to public hearing by the Council.

MOVED by Ewing-Holmstrom, SECOND by Haywood, to approve setting the date of December 16, 2003 to hold a public hearing and consider an ordinance closing a 5-foot utility easement at this location. AYE: Hanna, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren. NAY: None. MOTION CARRIED.

15. Consider approving the plans and specifications for a drainage structure to be constructed upon Lot 29, Block 6, Heritage Hills Addition, Part 2. Exhibits: Location Map and Memorandum by Civil Engineer.

Jones said The Cox Development Company of Lawton, Inc. (Cox) had entered into an agreement with the City to construct a new drainage structure on Lot 29 in lieu of the detention pond, which was constructed in 1999. The new drainage structure must be built and be accepted for dedication by the City prior to the removal of the detention pond and the Civil Engineer had reviewed the plans and specifications for the new drainage structure submitted by Landmark Engineering and recommended approval and that all construction plans that propose the dedication of land shall be further approved by the Council to constitute a full commitment of the public to accept such dedication.

MOVED by Ewing-Holmstrom, SECOND by Patton, to approve the plans and specifications for a drainage structure to be constructed upon Lot 29, Block 6, Heritage Hills addition, Part 2. AYE: Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Hanna. NAY: None. MOTION CARRIED.

16. Discuss and provide direction on amending Chapter 14, Lawton City Code, on the requirement that mobile homes comply with all current applicable building code requirement when the mobile is placed, relocated, or moved to a new locations. Exhibits: None

This item was pulled as recommended by the Mayor and Council.

17. Consider entering into agreements with Great Plains Improvement Foundation, Inc., the Wichita Mountains Prevention Network, Inc., and Roadback, Inc., to carry out CDBG projects authorized in the City of Lawton Consolidated One-Year Action Plan for FFYs 2002 and 2003 and authorizing the Mayor and City Clerk to execute the agreements. Exhibits: None. The Consolidated One-Year Action Plans and the agreements are on file in the City Clerk s office.

Tim Libby, Grants and Fiscal Officer, HCD, said the City Council approved submission to HUD of the Consolidated One-Year Action Plans for FFY 2002 and FFY 2003 and the plan included projects that would be carried out by other agencies and organizations which reflect the agreements pertaining to the approved projects of Great Plains Improvement Foundation, Inc., the Wichita Mountains Prevention Network, Inc., and Roadback, Inc.

Shanklin asked how Roadback, Inc. planned on spending \$26,000 for kitchen renovations. Alexander said the kitchen renovation would take place at an existing building next door to the Miller Manor facility.

MOVED by Ewing-Holmstrom, SECOND by Hanna, to approve the agreements as recommended. AYE: Ewing-Holmstrom, Shanklin, Patton, Warren, Hanna, Devine. NAY: None. ABSTAIN: Haywood. MOTION CARRIED.

18. Consider establishing a Federal Grant Fund. Exhibits: Resolution No. 2003-_____.

Mitchell said this fund was requested to monitor and regulate numerous grant dollars currently being received by the City.

MOVED by Warren, SECOND by Haywood, to approve Resolution No. 03-174 establishing a Federal Grant Fund. AYE: Shanklin, Patton, Haywood, Warren, Hanna, Devine, Ewing-Holmstrom. NAY: None. MOTION CARRIED.

19. Consider an ordinance pertaining to utilities amending Section 22-2-1-215, Article 22-2, Chapter 22, Lawton City Code, 1995, adding a provision relating to utility adjustments, providing for severability and declaring an emergency. Exhibits: Copy of amended ordinance No. 03-_____.

Devine said he put this item on for consideration because he felt way too much responsibility was being put on the City Manager and the Finance Director of making decisions giving credits on large water bills and the ordinance stated an amount of \$500 and anything above that would be presented to council for approval, taking those

employees out of harms way and jeopardizing their positions.

Mayor do you want to make that in the form of a Motion.

Devine Yes

Warren second

Mayor we have a motion and a second and we had ample discussion at our last meeting, is there anymore discussion.

Shanklin Yes. Sir. This is only on what? What kind of a water leak, underground, unknown and that s all it is, that s the only authority they have to adjust the bill?

Devine up to \$500 dollars in my opinion, that s the way

Shanklin I don t mind the \$500, \$250 whatever it is, I ll be talking about some things in a minute that, it just says water bill adjustments, that the City Manager can approve, on any issue or is it underground water, that is what we are talking about over here, we re talking about leaks and inaccurate meter reading.

Vincent there are three categories in the old code and we have broken them down so they are a little clearer. Inaccurate meter readings is done without any limitation, if there is a bad meter reading they just take care of it.

Shanklin no problem.

Hanna what do you mean take care of it.

Vincent if there is a bad reading and the individual comes in and we go out and reread the meter and that causes an adjustment in the bill based on a more accurate meter reading it is just adjusted.

Hanna to the customer. Well, how about a meter that hadn t been read in over a year and you just find it, that no one knew where it was, that hadn t been read in about a year.

Mayor is there something you would like to share with us.

Hanna No I won t. I was just told that and I would like to know if it is true or not.

Mayor did he answer your question Mr. Hanna.

Hanna No, this is going to be a large account and this is an inaccurate meter reading so to speak, it hadn t been read in a long period of time, it would show to be inaccurate.

Shanklin well, they re going to claim inaccuracy.

Hanna and you would say, Oh, by the way, you owe us another \$8,000, that would be pretty hard to swallow.

Warren No, an inaccurate read would be when you have two completely different opposed numbers, what you are worried about is no reads, which would be totally completely different from this.

Vincent the other two categories are leaks or unexplained exceptional billings which were in the other ordinance, we just brought them down so that they are separate line items in this code so they are easier to read. And under leaks and unexplained exceptional billing, those have to come to council if they are over \$500.

Devine I understood what we were trying to do if anything was over \$500 would come before the council, even if it was an inaccurate meter reading.

Vincent we can certainly add that to subsection E.

Devine the whole purpose of that was to take that completely out of the equation, that anything over \$500 has to come before this council.

Mayor I think that was what your intent was so there wouldn t be any surprise.

Vincent Mr. Devine if you will amend your motion to say subsection F is amended by adding subsection C.

Devine So Moved.

Mayor Okay, that is added.

Shanklin now on page 64 you've got it down now that you don't have to have an affidavit anymore, just a little letter, hey, hey, that's wrong.

Vincent No, Sir. It has to be a notarized statement so that we know that that is the individual that is making the complaint.

Shanklin You are not saying that, it says, shall submit to the City a letter

Vincent notarized.

Shanklin signed by the consumer notarized. Well, I can live with that.

Patton I just wanted to make a comment, I don't know if we are in the discussion part or not, I don't have a problem with the council being kept in the loop, I think it's a good idea, but I am of the opinion, I may be in the minority, that Larry makes a good living, he is the City Manager, that kind of his job is to make these type decisions and I think that we should trust him to do that, I don't have a problem reviewing some of these decisions, but to say we want to take him out of the realm of the responsibility of making a \$500 adjustment on a utility bill, I think he makes a heck of a lot more important decisions than that in the course of a work day, so I kind of want us to get away from the micro-managing type aspect of it, I don't have a problem with us reviewing adjustments that have been made, but I don't know whether that is really something that we want to do on a week in and a week out basis, is make that a part of what we do.

Devine Mr. Mitchell is the one that recommended doing this.

Patton I don't have a problem with us reviewing it and Larry if that is what you want us to, that is fine, you are the manager, that is just my feelings on it.

Ewing-Holmstrom what Mr. Hanna said, there are meters out there we don't know about so are we going to be getting a whole bunch of these to be reviewing at city council and is that just going to bog down what we should really be doing, that is my first issue. Second is, do we not have a balance and checks system to find out the meters that are out there that we don't know exist, how can there be meters out there that we don't know exist.

Mitchell that happens from time to time, I can't explain it to you other than looking at an individual account. There are cases where that happens, you may have a new meter reader, that is the one I think of, you get a new meter reader assigned to a route and they miss one.

Ewing-Holmstrom I think before we start doing all of this other stuff and literally start micro managing, I like the idea because it keeps a balance and checks system, but my concern is there are going to be too many and there should be relatively none as far as missing meters, that situation or that problem needs to be fixed right away, whatever it takes, that should be done right away.

Mitchell we have been catching up with a lot of that. We had a list of meters that had zero readings and we have been catching up with those.

Ewing-Holmstrom again, is it a lack of manpower, are we just so short handed.

Mitchell I think part of it is turnover, part of it is the manpower issue, and part of it is our software issue, part of it is we need to get into some sort of meter replacement program.

Devine which we have suggested for the last four years.

Mitchell it is a series of things, but as I said at the last meeting, over the last four months there were 36 adjustments and the majority of those were under \$300.

Hanna Do we have a master plot down in your office where all of these meters are supposed to be located, by wards section, however you want to do it, so when a new meter reader comes in, he will get a copy of this of where to go look for all of these meters or are we going to go hit and miss because the last guy knew where they were but the new guy doesn't. If there isn't that, I think we ought to get one so every time we have a turn over, we put a new guy out there on the street he will have a direction on where to go, that way if he misses these meters now we can say, all right how come you didn't get them when you have a plot of it. This would save a lot of these problems and save a lot of hardship on all of us.

Endicott I can touch on that a little, we are in the process of identifying every meter out there that we are aware of

that is on our computer list by number, by date, we are trying to ascertain the age of the meter, more importantly so that we can move toward this meter replacement program. I want to touch briefly on the way that we might miss a meter. Revenue Services isn't the only one that sets meters, there is another division that sets meters.

Sometimes in the communication between their division and our division we may lose paperwork or something, I am not saying that is the reason, I have no idea, but I am not aware of the ones you spoke of. We will research it, there is a multitude of reasons for missing meters.

Warren I think what we are talking about in numbers is when we look at \$500, are we looking at three or four a year maybe. I just look at the agreement that we have with the City Attorney's office as far as \$400

Vincent Basically it is \$400, there are a couple of places I can go up to 75% of \$1,500, but very limited.

Warren that gives him a definite line where he can walk and not have to wonder.

Shanklin 50% of your budget is generated from water revenue that is the backbone of Lawton, Oklahoma, city government and it is very important that we get all of our money and get it equally and fairly from everyone not picking and choosing, how many instances would you like me to give you right now. We have a meter at Memorial Hospital and Bar S that hadn't been read. That certainly isn't our fault. We cut off Fort Sill Apache Casino for \$1,900, come to find out, they had paid it but we didn't do the same thing to a nursing home, they paid their bill and still didn't pay a reconnect or a late fee. You say you don't want to micro manage, who are you going to put out there that sees to it that everybody is treated the same, that is all I can tell you. It is not being done right now.

Ewing-Holmstrom do other cities have these same problems, their meters are hidden that no one knows about, we are like pirates, we have all these treasures buried but no one knows where they are, how does that happen.

Mayor I think Rick addressed that briefly and I think we could see how that could happen, we have 32,000 accounts out there.

Shanklin They say from 30 to 35 so somewhere in that they've got them a 5,000 variance.

Mayor we have motion on the floor and a second

Endicott I am sorry to interrupt, I just want to make sure that it is verified Item B2, says either a written statement from a plumber reflecting a repair or a letter signed. I think there was an indication that it had to be a letter that was notarized, there is an important OR in there so if a plumber provides us a statement, under this provision that would be adequate.

Mayor in lieu of the notarized letter.

MOVED by Devine, SECOND by Warren, felt way too much responsibility was being put on the City Manager and the Finance Director of making decisions giving credits on large water bills and in the ordinance stated an amount of \$500 and anything above that needed to be presented to council for approval, by taking those employees out of harms way and jeopardizing their positions and subsection F is amended by adding subsection C.

(title read aloud)

Ordinance 03-51

An Ordinance pertaining to utilities amending Section 22-2-1-215, Article 22-2, Chapter 22, Lawton City Code, 1995, adding a provision relating to utility adjustments, providing for severability and declaring an emergency.

VOTE ON MOTION: AYE: Patton, Haywood, Warren, Hanna, Devine, Ewing-Holmstrom, Shanklin. NAY: None. MOTION CARRIED.

ADDENDUM TO AGENDA

LAWTON CITY COUNCIL MEETING
NOVEMBER 11, 2003 - 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBERS

BUSINESS ITEM:

1. Consider authorizing the Street Division to participate with T & G Construction Inc for the reconstruction improvements of SE 1st St and "H" Ave. Exhibits: Letter dated November 7, 2003 from T & G Construction Inc.

Jerry Ihler, Public Works Director, said the City was in the process of reconstructing SE 1st St from H Ave to Summit Ave as part of the FEMA road repair program. In addition, H Ave from SE 1st St to SE 2nd St was in need of repair and

because these two roads provide access to T & G Construction Inc, they have agreed to assist the City of Lawton with the reconstruction of these two roads by assisting with the cost of a roto milling machine to remove the existing asphalt pavement and to provide labor and equipment costs for the reconstruction of H Ave. The use of the roto milling machine would expedite the pavement removal time, save the City money with less man-hours required to complete the improvements and lessen the inconvenience to the adjacent property owners during reconstruction. The City is responsible for the cost of material for both streets and for the labor and equipment costs for SE 1st St. T & G Construction Inc will provide 50% of the cost for the roto milling machine and the labor and equipment costs for the reconstruction of H Ave. The City will purchase the asphalt for these projects from T & G Construction Inc under the existing asphalt purchasing contract between the two parties. Ihler said this would save the City somewhere around \$30,000.

MOVED by Haywood, SECOND by Shanklin, to authorize the Street Division to participate with T & G Construction Inc. for the reconstruction improvements of SE 1st Street and H Avenue. AYE: Haywood, Warren, Hanna, Devine, Ewing-Holmstrom, Shanklin, Patton. NAY: None. MOTION CARRIED.

2. Discuss the overcharge of water bill on account 1503152041. Exhibits: Water bill dated 09/11/03 through 10/14/03 and affidavit

Shanklin said he mentioned this at the last council meeting, and said first of all he wanted to tell the citizens out there in Lawton that he is not trying to duck a water bill, I have paid my water bill, pay my \$900 a month, and I interceded in many of you peoples behalf at the water department. It is not that I am not trying to pay it, I don t owe this. Council if you will look at the second page I gave an affidavit. That is what an affidavit is and that is part of the code. The newspaper quotes Mr. Endicott, that if a customer submits an affidavit, Mr. Vincent, just because they didn t submit an affidavit does that mean it changes the code, sir.

Vincent No, sir.

Shanklin It should have been an affidavit.

Vincent A document to start the process.

Shanklin It should have been an affidavit to begin with. None of these have been, especially the one that writes up and says hey Barbara, I didn t use that water, and besides that, you gave that meter to so and so and please adjust my bill. And we did that for \$3,500. I have the affidavit and my water bill will show you that, you mean I don t have a copy of that water bill, she didn t put it, I still don t have it, I should have one in mine. Anyway, council, if you will look, this was read on 9/11 and 10/14. I used 1,000 gallons and they want me to pay \$173.41 for 1,000 gallons. Mr. Mitchell and Mr. Endicott both told me that I owed that. This is at 1206 SW I, 1204 SW I, Mr. Devine got me a construction credit that was hid back someplace in the code. With that construction credit I did 1204, 1204 SW I also cost \$86.00 for the first month for each individual who read it. I just simply state this is a personal vendetta that Mr. Mitchell and Mr. Endicott and I have going and for some reason they have chosen to believe that I should pay this. Council I don t owe it. Don t owe it and I simply say that somebody make the motion that staff correct this billing and at least give me what they did at 1204 SW I a \$25 credit. That s it.

Mitchell There is no vendetta, we had a conversation with Mr. Shanklin, we offered to propose a draft amendment to the ordinance, Mr. Shanklin told us that wasn t required that the council would do that and at the next council meeting, council did that very thing, they amended the ordinance that included remodeling which would cover Mr. Shanklin s situation.

Shanklin This is after the fact council, this is over with.

Hanna On that amendment to the ordinance, did you go back and take care of that problem at that time. I think this goes back to the beginning where you, Rick and everybody else has the authority to write these bills off, like leaks and all that stuff, and I think I have talked to you before and I think some other people have talked to you before on this, and I think citizens should be treated fairly on this, I don t care who they are. Did I not talk to you on this before.

Mitchell Yes, and I believe we are applying the ordinance correctly.

Hanna is the ordinance being applied to everybody.

Mitchell I believe it is.

Shanklin You are still saying publicly that I owe this \$173. I owe the \$173.

Mitchell Yes. Rick has a comparison of the water accounts.

Shanklin Council, what they are doing they are billing me \$20 for setting up this account whenever this was established back in 85 or 95.

Endicott There are two pieces of paper that I have handed to you, one is for 1204 SW I and one is for 1206 SW I. I believe the bill that the councilman is referring to is the 1206 SW I. That account was originally opened 4/10 and we did issue the construction credit and that account was closed on May 8 and reopened 9/12. It was bill for 1,000 gallons. The councilman was charged \$8.25 for water, the rest of that bill is the billing factor seven times, trash, capitol outlay, and those items. Water was \$8.25. He was also billed a service charge to re-establish that account. So in our estimation the construction credit does not apply in this instance because he closed the original account, we were never notified that additional construction was going on, therefore we billed him properly. If there are any questions I will .

Endicott the same person opened the account both times.

Devine my problem goes back to sometime ago when we passed this ordinance on the water rates that we were going to charge everybody, and I am not saying this just for Mr. Shanklin s behalf, and I am going to bring this back to the council and I think the council really needs to look at it, is to where you have an apartment complex and you are charged, for example right here, seven times for garbage pick up, for everyone of these charges, this is unfair this needs to be brought back and looked at again and the more I think about this I cannot believe this council has put a burden on people just because they own rental property. A prime example, a man came to me wanting me to separate his out, he had thirteen apartments and he is going to have to put in 13 separate water meters to take his water bills down to where he can either stay in business or literally close and council we need to look at this. I have never seen anything more unfair and I remember one of the council members said when this was brought up, that is just part of doing business, that is not part of doing business, that is gouging people, tremendously because you are not charging them fairly. You charge individual homes we are going to get into charging how many people live in the homes, what s going to end up doing. This has got to be brought back and looked at again and I am going to definitely bring this back on an agenda item.

Warren I have talked to Mr. Mitchell about this on a couple of occasions and I think part of the problem that we got into was we were having difficulty verifying how many vacancies that we had, I think that was some history on how this all came about.

Shanklin Vacancies where.

Ewing-Holmstrom aren t we getting away from the .

Warren in Apartments, duplexes and things of that nature. So I think what we had talked about, in the future, we can t do this on the run now because our budget right now is predicated on those charges, that is how we forecasted our budget was we looked at that number of accounts with that number of charges. So I think what the council needs to do if, and it sounds like Mr. Devine wants to do that, I don t know how everyone else feels, but we need to give direction to the City Manager, when he begins preparing the budget part for us to look at next year, we need to give him the direction to change the way that we do that and I don t know the best way to do that, we kicked around a little bit setting up a matrix that says if you own two to five billing factor, that you would pay XX amount in additional charges as far as Waurika, trash, things of that nature and it would fit into, whether or not they were rented or not, you would pay, not necessarily for every single one, but it would be in a matrix that way we didn t have to go verify every month, and it is a set bill, you know from the get go what it was going to be and I think that might address it, I mean it is not going to make everybody happy but I think it is a good balance, we definitely need to tell the manager that that is what we want to do when he starts building the budget.

Mayor that is for next year. Okay, let s get back on this if we could .

Shanklin I brought up another account, I didn t bring it with me, that had twelve meters and they arbitrarily reduced it to four because they didn t have a water, they can t show me the code that they can do that. Can you show the code that you can reduce it from twelve to four then add four more. Can you do that sir.

Endicott I don t know what account you are talking about sir.

Shanklin It was brought up last time, I had it last time.

Endicott I would be happy to research it and get with the City Manager.

Shanklin You should know that, it s those twelve apartments behind me. Mr. Mitchell you know which ones they are.

Mitchell Larry Gee.

Shanklin And he is transparent, he shouldn t even be mentioned, but he had twelve apartments, he reduced them

to four and then eight as he put them together. Why would you not apply that here, Mr. Mitchell and Mr. Endicott.

Mitchell I believe in Mr. Gee s case there are three separate structures and there were two of the three structures not connected to the meter.

Shanklin You saw that with your own eyes.

Mitchell I did not see that I read a report from an inspector, we had an inspector go out and inspect the property and he determined those other two units were not connected to our service, we don t charge anybody for water service that are not connected to our meter or to our main.

Endicott This is Mark Moore he did the inspection, he saw it with his own eyes.

Moore He had copper lines coming out of the middle building and went the one all the way to the north had no copper at all.

Shanklin Mark, where is the code that says when you have twelve to a meter that you can differentiate. Where do you have the code, I have asked you for that code twice.

Mitchell He didn t have twelve units connected to our water meter.

Shanklin the water meter calls for twelve, a factor of twelve. How do you get away from that.

Mitchell No it doesn t. If he doesn t have eight of the units connected to the meter, then he only has four, he doesn t have twelve if they are not connected. You just said they weren t connected.

Shanklin How do you take away from the twelve and say it is just four when the factor is twelve.

Mitchell Because there are only four connected.

Shanklin No. You can t change that on here. You don t have that authority. Tell me the code that you have and I ll go pay it. I ll be down there in the morning to pay it, How you did that.

Mitchell I didn t change anything.

Endicott I don t believe the code allows us to charge people that do not have water connections to their establishment.

Shanklin No, you are not answering the question. How did you reduce it from twelve to four by the code. Mr. Vincent, can you tell them how they did it.

Vincent No. Sir.

Shanklin Well, do you think you can do that.

Vincent I would have to look and honestly I have not looked at that question.

Shanklin Council, I am just going to say this and then ya ll can make up your mind. I opened an account yes in March/April, that was to find out the leaks and we used a magnificent sum of 4,000 gallons for seven units. Anybody with common sense would know seven people didn t live there, would you not agree with that.

Mitchell I would agree with that. I don t have any problem with that.

Shanklin At least you are coming back down. And so when you get over there with 1,000 gallons in one months time, seven people, that s all they used, that s common sense to use or not.

Endicott You were given a credit of three times seven, would be 21,000 for that structure and you were given a credit for the water that was not consumed.

Shanklin So I pay \$173, you think that is a good deal for you, that that is fair and as fair as you have done anyone else, any of these other people that you didn t collect the reconnect or the late fee. Council they are doing it, they are doing it everyday, they are doing it just like they want to.

Mitchell I beg your pardon, I am not doing it everyday, I said there are 36 in four months, most of those are under a couple hundred dollars, I would be happy to adjust Mr. Shanklin s bill, I would be happy to send a bill out to Larry Gee, whatever council directs me to do, I will do it.

Shanklin Larry Gee, you did him right finally and I said that from day one, you finally used some common sense.

Mitchell I would be happy to pay your bill too.

Shanklin You would be happy to do what? Happy to do what.

Mitchell Happy to pay your bill if that s what,

Shanklin No. I owe for some water, but I don t owe for seven apartments when they weren t rented. They weren t even done and they re not done right now as I speak, come out there and look, I begged you to come look and you will not do it, either one of you, but,

Endicott We have been out there, yes, sir.

Shanklin Well, how many am I still working on.

Endicott We have no idea.

Shanklin You don t have a pair of eyes.

Endicott We have no idea sir, we know that some water has been consumed, yes, sir. We don t have

Shanklin since this 1,000.

Endicott Yes sir.

Shanklin Yow, this went on the end apartment. I think the last time I looked at it 4,000 since this has been read.

Endicott Mr. Shanklin,

Shanklin Mr. Endicott,

Endicott I am not treating you any different

Shanklin Yes you are and that s good enough, Council I am asking you to either say treat me like they would anyone else or tell me to go pay the bill.

Mayor I will have to ask the City Attorney, on what this agendaed as is discuss the overcharge, what guidance, direction. Can council give direction. Comments, action, no action, council, what do you want?

Shanklin I will pay it council, but I don t owe it.

Mayor Okay, to my knowledge, that is all that is in open session, we will go to reports now please.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Colonel Herring announced the Memorial Service this Thursday, November 13, 2003, 2:00 p.m. at Sheridan Theater, for the six soldiers from Fort Sill recently killed in Iraq and thanked everyone for the support they have shown to Fort Sill.

Shanklin said the city had more money other than that \$480,000 and the city currently had six police officers that were working part-time and said the city would be showing a dissatisfaction to the citizens of Lawton if these police officers were taken off the line.

Chief Thorne said these retired officers had an agreement until the 15th to retain them in their position and he was preparing an agreement for consideration and said the union did agree to extend which would be brought back to council. Vincent said this was done by a memorandum of understanding between the City Manager and the Union President for as long as we had people deployed.

Shanklin said he received an OML report that indicated Mr. Mitchell was on some committee, and this report says they want to remove municipalities from liability of sewer backups unless claim was for personal injury, death, or disfigurement resulting from backup. Shanklin said our lines were so dilapidated he could not support this legislation and suggested Mitchell not support it either.

Mitchell said that was OML s list of proposed legislation and said that particular legislation was introduced by

OMEG.

Warren asked the length of the contract being signed with the retired officers. Vincent said the time was based on the length and number of people deployed out of the police department. Warren asked for the time to be extended further out. Chief Thorne said this had been extended once and they may be looking at some additional recalls.

Ewing-Holmstrom said the traffic lights were up at Flower Mound and traffic was moving from Lee to Gore. She said this was a Federal Holiday and asked that meetings not be held on these days. Mayor said once he realized this day was a holiday, he was out of time to reschedule the meeting and accepted full responsibility for this oversight.

Hanna said there was a misquote in the Sunday paper about upcoming football games and announced Eisenhower would play Putnam City North, Thursday night at 7:30 at Cameron and Macarthur plays Friday night at 7:30 at Cameron and invited everyone to come out and show support for their team, the Lawton Public Schools and this great city.

Mitchell announced the space station exhibit at the McMahon Auditorium which runs November 12th through 17th and said there was a water committee meeting with Fort Sill on Thursday at 9:00 a.m. Mitchell reminded council of the water workshop at OML. Vincent said a meeting notice and agenda would be posted as several council members would be attending this meeting, but no official city business would be discussed.

MOVED by Hanna, SECOND by Warren, to convene in executive session as shown on the agenda and as recommended by the legal staff after a five minute recess. AYE: Warren, Hanna, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

The Mayor and Council convened in executive session at 7:30 p.m. and reconvened in regular, open session at 8:30 p.m. with roll call reflecting all members present, except Bass.

BUSINESS ITEMS:

20. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the contract arbitration hearing and the award in the case of IAFF, Local 1882 vs. City of Lawton, Oklahoma, FMCS 030711-51626-8, and, in open session, consider adopting a resolution calling for a special election on a contract between the City and IAFF, Local 1882, for fiscal year 2003-2004. Exhibits: None. Resolution No. 03-____ to be distributed in Executive Session

21. 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-03-0082 HE, Western District Court of Oklahoma, and if necessary, take appropriate action in open session. Exhibits: None.

22. Pursuant to Section 307B1, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the election of a City Clerk, and in open session take any necessary action. Exhibits: None

A3. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss negotiations for a Collective Bargaining Agreement for FY 2004-2005 between the Police Union, IUPA, Local 24, and the City of Lawton, and take appropriate action in open session. Exhibits: None.

A4. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the disciplinary action taken against Renee Plata, and, in open session take appropriate action. Exhibits: None.

Vincent reported on Item 20 by reading the agenda item title and said it was appropriate to make a motion on this item. MOVED by Devine, SECOND by Haywood, to accept the Arbitrator's ruling and not go out for a special election. AYE: Hanna, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren. NAY: None. MOTION CARRIED.

Vincent reported on Item 21 by reading the agenda item title and said a report was given to council by the City Attorney's office and no action was required at this time.

Vincent reported on Item Addendum 3 by reading the agenda item title to discuss negotiations for a Collective Bargaining Agreement for FY 2004-2005 between the Police Union, IUPA, Local 24, and the City of Lawton, and council was advised a letter had been received requesting that negotiations begin for the next fiscal year and said staff needed to appoint a negotiating team and the recommendation was Greg Buckley as Chief Negotiator, Tim Golden, Tim Wilson and John Vincent as members on the negotiating team. MOVED by Patton, SECOND by Hanna, to approve the negotiating team as recommended. AYE: Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Hanna. NAY: None. MOTION CARRIED.

Vincent reported on Item Addendum 4 by reading the agenda item title to discuss the disciplinary action taken

against Renee Plata, and, no action was required.

Mayor Powell reported on Item 22 by reading the agenda item title and said executive session was held to discuss the election of a City Clerk. MOVED by Patton, SECOND by Ewing-Holmstrom, to review the applications and each person rank their top three candidates and proceed from there.

SUBSTITUTE MOTION by Hanna, SECOND by Devine, that Kathy Fanning be hired and forego the applications with an effective date of December 8, 2003.

VOTE ON SUBSTITUTE MOTION: AYE: Shanklin, Haywood, Hanna, Devine. NAY: Ewing-Holmstrom, Patton, Warren.
MOTION CARRIED.

ADJOURNMENT.

There being no further business to discuss, the meeting adjourned at 8:35 p.m.