

Meeting of 2003-12-16 Regular Meeting

MINUTES

LAWTON CITY COUNCIL REGULAR MEETING  
DECEMBER 16, 2003  
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor Cecil E. Powell,                      Also Present:  
Presiding                                      Larry Mitchell, City Manager  
    John Vincent, City Attorney  
    Kathy Fanning, Acting City Clerk  
    Col. Gregory K. Herring, Fort Sill Liaison

The meeting was called to order at 6:11 p.m. by Mayor Powell. Notice of meeting and agenda were posted on the City Hall notice board as required by law.

ROLL CALL

PRESENT:                      Randy Bass, Ward One  
    James Hanna, Ward Two  
    Glenn Devine, Ward Three  
    Amy Ewing-Holmstrom, Ward Four  
    Robert Shanklin, Ward Five  
    Jeffrey Patton, Ward Six  
    Stanley Haywood, Ward Seven  
    Randy Warren, Ward Eight

ABSENT:    None

AUDIENCE PARTICIPATION:    None

CONSENT AGENDA : Separate consideration was requested for Items #1, 3, & 7.

MOTION by Bass, SECOND by Haywood, to approve the consent agenda with the exception of items #1, 3, and 7. AYE: Hanna, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Bass. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for denial: Homer J. Sappington, Romanita Vera, Lonnie Rone, and Southwestern Bell.

Ewing-Holmstrom said she would like to pull the damage claim for Sappington for approval and deny the others.

MOTION by Ewing-Holmstrom, SECOND by Devine, to adopt Res. No. 03-203 approving the damage claim for Homer J. Sappington in the amount of \$405.87 and deny the damage claims of Romanita Vera, Lonnie Rone, and Southwestern Bell. AYE: Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Bass, Hanna. NAY: None. MOTION CARRIED.

2. Consider the following damage claim recommended for approval and consider passage of the resolution authorizing the City Attorney to file a friendly suit for this claim which is over \$400.00: Southwestern Bell Telephone Company. Action: Adopted Res. No. 03- 204 approving damage claim.

3. Consider accepting a Wellness and Fitness Fire Act Grant awarded the City of Lawton Fire Department on September 11, 2003.

MOTION by Hanna, SECOND by Haywood, to table item #3, accepting a Wellness and Fitness Fire Act Grant awarded the City of Lawton Fire Department on September 11, 2003. AYE: Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Bass, Hanna, Devine. NAY: None. MOTION CARRIED.

4. Consider awarding contract for Fire Safety Education Trailer (CL04-013). Action: approved.

5. Consider approving the replat for Lot 2, Block 1, Summerwood Square Addition, Part 3. Action: approved.

6. Consider accepting a Warranty Deed for Lots 1, 2, and 3 of Block 35 of Woods Addition from Hazel Huffman in exchange for payment of the 2003 property taxes, and authorize the Mayor and City Clerk to execute the Warranty Deed. Action: approved.

7. Consider awarding a construction contract to Bruton Construction Co., Inc. for the NW 34<sup>th</sup> Street/Drainage Project #2001-23.

Powell said he pulled this for Ihler to give an overview to let the people know this is your Capital Improvements Program working at its best.

Ihler said we are asking to award the construction contract to Bruton Construction Company for the NW 34<sup>th</sup> Street/Drainage Project. As part of the 2000 CIP, one of our major areas of concerns for drainage was the area around 34<sup>th</sup> Street and Cache Road. He said that is a collector road people traverse to get to Comanche County Memorial Hospital and even on the smallest of frequency storms, we would not be able to get through that area on some occasions. As part of the 2000 CIP, the citizens voted and approved for 3.5 million dollars to be appropriated for the project. He said the project starts at 34<sup>th</sup> and Cache Road, starting out as an 8 x 2, goes to an 8 x 4, then 8 x 6 box from Cache Road, south, then east behind Tomlinson Jr. High on the south side and ties into the main branch of Squaw Creek at Squaw Creek and Ferris Avenue. Five bids were received on this project and staff is recommending awarding the project to Bruton Construction for \$2,671,881.

MOTION by Devine, SECOND by Patton, to award the construction contract to Bruton Construction Co., Inc. for the NW 34<sup>th</sup> Street/Drainage Project #2001-23. AYE: Shanklin, Patton, Haywood, Warren, Bass, Hanna, Devine, Ewing-Holmstrom. NAY: None. MOTION CARRIED.

Powell said he had been asked by the City Attorney to notify Council to strike items #21 and 24.

8. Consider denying requests for the installation of traffic control devices on NW Quannah Parker Trailway at Crosby Park Blvd., NW 17<sup>th</sup> and Elm, NW Waterford at Ferris and at Homestead. Action: approved.

9. Consider approving a Resolution authorizing the installation or removal of traffic control devices at 1621 SE Walnut Creek Road, NW Wolf Creek Blvd. at 47<sup>th</sup>, NW Hunter just north of Cache Road, 303 SW J Avenue, SW H Avenue at 5<sup>th</sup> Street, SE Pebble Creek at Walnut Creek, SE 1<sup>st</sup> at H Avenue, SW D Avenue from Sheridan to 20<sup>th</sup>, SW 12<sup>th</sup> just north of Lee Blvd., 1600 block of SW Garfield, SW 16<sup>th</sup> and Garfield. Action: Adopted Traffic Resolution No. 03-04 approving above item.

10. Consider approving the 2004 Notice of Meeting schedule for Lawton City Council meetings and approve a Resolution setting December 7, 2004 as a Special Regular Meeting for the month of December and canceling the Regular Meeting of December 28, 2004. Action: Adopted Res. No. 03- 205 approving above item.

11. Consider approving the following contract extension: Credit Card Acceptance Program (RFP CL02-029) with Bank of Oklahoma - Municipal Court. Action: approved

12. Consider awarding contract for Refuse Collection Bodies (CL04-030) to J and R Equipment Company of Oklahoma City. Action: approved

13. Consider approval of appointments to boards, commissions and trusts. Action: approved.

14. Consider approval of the minutes of November 25, 2003. Action: approved.

15. Consider approval of payroll for the period of December 8, 2003 to December 21, 2003. Action: approved.

#### BUSINESS ITEMS:

16. Hold a public hearing and consider an ordinance closing a five-foot utility easement, more particularly described as the North five-feet (5') of the West one hundred and ten feet (110') of Lot 13, Block 6, Heritage Hills Addition, Part Two.

Deborah Jones said is an item to hold a public hearing in considering an ordinance closing a five-foot utility easement in Heritage Hills Addition, Part Two and the initiator is Mr. Cox who desires to replat Lots 11 - 22 and enlarge them in size. He desires to relocate the utilities currently in this five-foot easement and create a new five-foot easement and have the electrical facility moved to it. Jones said notice of this proposed closure has been served both to property owners within 300 feet, as well as all utility companies. She said AEP has consented to the relocation of the facility they currently have in the easement, provided Mr. Cox pays all costs and he is aware of this.

Public Hearing was opened and closed at this time with no participants.

Vincent read the ordinance title prior to vote.

MOTION by Ewing-Holmstrom, SECOND by Patton, to approve Ord. No. 03-56 closing a five-foot utility easement, more particularly described as the North five-feet (5') of the West one hundred and ten feet (110') of Lot 13, Block 6, Heritage Hills Addition, Part Two. AYE: Patton, Haywood, Warren, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin. NAY: None. MOTION CARRIED.

(Title only)

**Ordinance No. 03-56**

An ordinance closing a Utility Easement described as the North Five-Feet (5') of the West One Hundred and Ten Feet (110') of Lot 13, Block 6, Heritage Hills Addition, Part Two, addressed as 1600 NE 35<sup>th</sup> Street.

17. Hold a public hearing and consider a resolution amending the 2025 Land Use Plan from Residential/High Density to Commercial and an ordinance changing the zoning from R-3 (Multiple-Family Dwelling District) and R-4 (High Density Apartment District) zoning classification located in the 100 and 200 blocks between Gore Boulevard and Ferris Avenue.

Bigham said this is a resolution considering an amendment to the Land Use Plan and an ordinance considering a change in zoning from R-3 and R-4 to C-5, General Commercial. He said this action was initiated by the City Council in the spring of 2003 and we went through the public hearing process, even though it was initiated by the City. He said this area is on 2<sup>nd</sup> Street, essentially it fills in C-5 Commercial Zoning between 2<sup>nd</sup> and 3<sup>rd</sup> Streets. Gore Boulevard is on the south, 2<sup>nd</sup> Street is zoned C-5 Commercial now. There is a total of 57 platted lots in this area. The Planning Commission, on November 13<sup>th</sup> held a public hearing on this with 3 persons speaking in favor of this request and 3 persons appeared to speak against this request. The Planning Commission, by a 5-3 vote, recommended approval of this request to the City Council. Notice of public hearing was mailed to 90 property owners within the 300 foot notification area and 40 property owners within the requested area, as well as advertisement in the Lawton Constitution.

Public Hearing was opened at this time.

Steven Johnson, 7 NW Fort Sill Boulevard, President of the Old Town North Neighborhood Association, said North Addition was platted in 1908 and includes the area bounded by Railroad and Fort Sill Blvd., Gore and Ferris Ave. He said the proposal before Council to rezone this area of North Addition is very important to the residents of Old Town North. Johnson said he was here representing the association asking Council to disapprove this rezoning proposal. He pointed out four reasons why not to favorably consider it; 1) because of the unprecedented nature of this proposal, in that it emanated from City Council itself and constitutes the first time this has ever occurred, at least to the Planning Department; 2) it constitutes a giant step backwards in terms of the usual rezoning requests, in that rezoning from R-3 and R-4 Residential to the least restrictive, virtually unrestricted, zoning of C-5, is rather unprecedented; 3) it encompasses a rather large area of 8 full city blocks and potentially effects many residents. He said during the public hearing several weeks ago, before the Planning Commission, the Chairperson, Ms. Pat Henry, expressed concern about this zoning request emanating from the City Council and about the need to rezone to the least restrictive of the Commercial Zoning, C-5. Her negative vote on this issue reflects her concern for the welfare of the residents of North Addition. Johnson said Council should not favorably consider this proposal to rezone because commercial encroachment into a long-established neighborhood, will likely create a domino effect. If this rezoning proposal is approved, how long does Council believe it will be before we see continued deterioration of the remaining residential properties adjacent to the newly zoned commercial lots and continued, in fact, speeded, residential migration, from the affected area. He said Columbia Square, for example, will become a far less desirable place to live and bring up children. He said adoption of this rezoning proposal will ultimately pave the way for further commercialization in a westerly direction. He said the critical need in the city is more multi-family and high density apartment dwellings, not more expanded business in residential neighborhoods. Council should not favorably consider this proposal because the east and west sides of 2<sup>nd</sup> Street have been zoned C-5 for many years. He asked what Council found attractive about what exists there now; taverns, automobile repair shops and used car lots, which are the bulk of the business enterprises currently on 2<sup>nd</sup> Street. He asked how rezoning the east side of 3<sup>rd</sup> Street would enhance the character of this neighborhood. He said since it is not a principal arterial street, all we are likely to have is metal covered storage buildings or less desirable open storage areas for the overflow from 2<sup>nd</sup> Street. Johnson said if there is little incentive for the owners of residential properties on 3<sup>rd</sup> Street now to maintain their property, this rezoning would only perturb the situation; 4) Council should not consider this rezoning proposal because it is in contravention of the 2025 Land Use Plan, ratified by this Council, scarcely two years ago. He asked the Council to consider the ethnicity of departing from a plan that is only three years into its 25 year life span. He said they are asking Council to place good, public, local welfare above self interest. Johnson said a C-5 zoning is the least restrictive of commercial zoning provisions in the City Code and would permit very undesirable business applications close to schools, churches and residential dwellings and undoubtedly, lead to an increase of crime in the area. This neighborhood needs upgrading, but C-5 and added commercial encroachment, is not the way to accomplish that goal.

Ewing-Holmstrom asked Johnson, as president of the neighborhood association, was there a zoning you would prefer, as to not rezoning it at all? Was there a second choice?

Johnson said no, actually, the members of the association would prefer to leave it R-4, as it is now.

Hank Myers said he has resided at 407 N 3<sup>rd</sup> for 45 years and owns property at 214 and 216 Euclid. He said the area considered for change, which he hopes Council does, is nothing but a blighted area and most of the residents down there now are all boarded up. There is a past history of prostitution, drugs, crack houses, meth houses, so anything at all would be an improvement over the area they have right now. He said he understands why Devine and Shanklin will abstain on the vote, they do have property in that area and he appreciates Devine bringing this to the Council, it's something that should have been done a long time ago. Myers said the area is getting more deteriorated every year and the people in the Old Town North Association doesn't live down there. He said they never accepted them as being a part of their part of town and they have a one block buffer zone which is the 300 block, between 3<sup>rd</sup> and 4<sup>th</sup> Street, which will still be between them and the C-5 zoned area, so we really are not encroaching on Old Town North, we're just trying to make something better for the citizens of Lawton. The businesses are all moving west, south and in every direction and we need to do something and do it quick for the Old Town North area.

Less McKenzie said he owns property down there also, at Columbia and 3<sup>rd</sup> and 3<sup>rd</sup> and Dearborn. He said he has some vacant lots and has tried to rezone them to C-5 for years and we can't rezone unless we rezone everything up to them. He has a business he would love to put in Lawton, but has to put it out of town because he has no other land than that. McKenzie said he pays \$80 per year on taxes and would love to pay more to have it in town, if we could get that rezoned to C-5. He said they are not asking to tear all the houses down, there is a bunch of boarded up houses down there. Commercial would be good for that area. He said everyone says they want to bring traffic to Lawton. When they come down 2<sup>nd</sup> Street they want to see nice things, they want to see businesses. If there wasn't an automotive shop down there, these people would be walking, we've got to put them somewhere. The plumbing shops have to go somewhere and that's as good as anywhere; it's not out of the way, it's where everybody can get to it, it's by the mall and we get a lot of traffic there and would like to see it turned to C-5, it would help Lawton's economy a lot.

Ewing-Holmstrom asked McKenzie what type of business he has.

McKenzie said construction.

Jane Shaw, 1001 NW Bell, said the house she lives in was built by her grandfather around 1908. She said she has come down to Council meetings numerous times and if someone isn't trying to encroach on the neighborhood from Ft. Sill Blvd., they're going to come from the other direction. She remembers 20-30 years ago, people were saying we need to protect our town, make our town pretty. She said things need zoned so businesses are in one area and residential in another. She said upgrading it to a construction company, or moving in three more plumbing supply companies, or whatever, is not going to help the neighborhood. She said Devine doesn't want to pay \$300 every time he comes before Council. She said Council passed a Historical Ordinance and now we are going to take several square blocks and make it the worst zoning possible. She would like for Council to not vote in favor of this.

Brent Down, 701 NW Arlington, said anyone living in this area has to have noticed over the last two years, that it is getting better. It does take time and he thinks it's very sad there is not a lot of history left in the town and if Council does this, they are destroying one of the most important historical things in this town and he cannot believe this is happening. Down said you have to start somewhere and we went before Council to get protection for historical areas. He lives in Old Town North and it's sad that people are not seeing what we have and before it's over with, it's going to be gone. He hopes Council votes against this.

Jim Williams said his family owns some property on 2<sup>nd</sup> Street and west on Columbia and most of those are tenant-occupied, with very few of those dwellings owner-occupied. If you took a poll of the people who actually own that property, they'd be in favor of this resolution. Williams said he sat in a meeting with Bigham a couple years ago where the State wants to go through 2<sup>nd</sup> Street and do some improvement and you want the landowners around the corners, to contribute to that. If you expect us to do that, then you need to let us do what we want to with our land and change it to this new classification.

Hanna said he would like to hear from the Council member or members who's ward this is in and also who have businesses down there; what they want done to that area and why.

Public Hearing was closed at this time.

Devine said he was sure everyone was pointing at him to address this item and make it plain and simple. This all started when he needed one lot rezoned and came into the city to have it done and it was going to cost him \$600 to have it done. He said the reason Bigham said he didn't want to rezone the whole thing is because it would cost the city \$300 to do the zoning of all the lots. Devine said with that, he volunteered to pay the \$300 because that's \$300 cheaper than what it would be to him if he did one lot. He said Mullins has taken a corner and literally turned it into a show place for this city and if he hadn't of had the zoning to do that, he wouldn't have been able to spend the money to make that corner. Devine said yes, it's a car lot, but he took an old ragged out laundry mat and a gay bar and turned them both into a real beautiful car lot. Mr. McKenzie would like to put his business in here and Devine's concern is when we go to tear property down or don't want to do anything, every time you take down a structure, you cut the tax income off that property, because they tax you for everything that's on the property. He

said if we tear down all those old raggedy buildings, it cuts down the tax income considerably. He said they have had major problems with prostitution and illegal drugs and would love to see it changed; we know the people who owns property down there is going to increase the value of it and increase the tax base because they are going to put something in there that will be desirable. He said another gentleman did a lot of work and has made a great improvement, took an old ice dock, a terrible eye sore, spent thousands of dollars improving this on the corner of 2<sup>nd</sup> and Dearborn, made that a beautiful place. He has another lot in there that's residential, right in the middle of all that commercial, he can't expand, he can't do anything to make the property any better because he's not going to build a house on a 25 foot lot, it's not good for anything else and that's what a lot of these little lots are; some are 50 foot, some 75, some 25. Devine said he has always been against strip zoning and that's what's happened here. They have stripped zoned this and it's created the problem and now we're trying to correct that problem. At the beginning, it should never have been made anything other than all residential or all commercial, now it's all in there mingled and nobody can do anything with it. Nobody is going to go down there and build a \$40,000 to \$50,000 home right in the middle of that mess. He said Council really needs to consider this because this would be a good improvement to our city and is not degrading anything at all. He told the CPC he would abstain from voting on this and he will, he said he will not vote on this issue.

Warren said he hopes, in the future, it will become the norm, rather than something unprecedented. He said when we go into a major arterial block area, we need to do it all at one time and be done with it. It gives direction for people looking to buy property and that's part of moving forward and helps push it along. He said we can't leave those lots; the facing lots on 2<sup>nd</sup> Street are going to be commercial and we can't leave those lots in the back to just deteriorate and become an alleyway; we need to rezone it all. If a company wants to come in and use an entire block, it's available to them, it's already zoned and ready to go. If those rent houses want to stay there, they can remain, there's nothing saying they have to move.

Patton asked about the few residents who actually live there, own the land, what kind of effect would this be on their property taxes?

Bigham said that's not really a City issue, that's the responsibility of the County Assessor. He said they look at the type of activity on the property before determining the valuation of the property, to determine the tax rate. He said he didn't feel qualified to answer that question.

Ewing-Holmstrom said unprecedented was a good way to describe this. She said we have this long list of businesses in town brought up for D & D and none of them are in this area. If these businesses or homes are so dilapidated, why aren't they coming before Council on the D & D list. She said the second problem she has is this Council just voted for a Historical Preservation for this same area to give these people an opportunity to protect their neighborhood. She said she is not for this and urged Council to vote against it.

Devine said we didn't vote to make Old Town North anything yet, we just put the tool there. If the people in that area wants to make their area historical, they can do that. We only passed an ordinance giving them the tool to do that. We just endorsed the ordinance, not Old Town North.

Bass said he spoke with Mr. Johnson today before coming here and knows they don't want us to encroach anymore on Old Town North, but, something has to be done with this block. If they're saying this block looks great, then he doesn't think they are being honest with Council. If you drive down there at 2:00 a.m., it comes alive. He said something needs to be done with this area and he doesn't think you can go any further west with the commercial zoning than it already is. If commercial zoning will help this area, he's for it. He urged Council to drive by and look at it, because he thinks it's a real problem area; half the block is already commercial, you're only going to lose half the other side, and it makes your property worth more, if it's commercial.

Shanklin said he and Bass were out looking at Zone 1 about a year ago, seeing what was on 3<sup>rd</sup> and Bell and this afternoon, drove down 3<sup>rd</sup> and realized how many houses are boarded up on 3<sup>rd</sup> Street, Bell and back to Ferris. He said the property he has in this area will soon be sold and he can see it both ways. We are trying really hard to get something going so people will want to come back to the central part of town, Old Town North. He said we've put C-5 from Railroad to 11<sup>th</sup> Street, parking off street from Gore to F Ave., they don't have to have an on-site parking. We fought a four-plex on Ferris, Old Town North, and ended up with two duplexes; plain duplexes and we were told they were going to build a \$400,000 unit. He said we fought Braum's at 11<sup>th</sup> and Ferris; what it would be if we had the nice brand new Braum's. He said his point is, after looking at those, he has nothing to gain; it's a hard decision to make and he is not necessarily against or for it. We have to do something to get central quarter to entice people to come back in. He said if you think anyone is going to build a house at 11<sup>th</sup> and Ferris, across from Lawton High, it's never going to happen. Shanklin said he owns nine properties in Old Town North and this will not ruin him, so he can't vote.

Vincent read the ordinance title prior to the vote.

MOTION by Warren, SECOND by Bass, to approve Res. No. 03-197 and Ord. No. 03-57 amending the 2025 Land Use Plan from Residential/High Density to Commercial and an ordinance changing the zoning from R-3 (Multiple-Family Dwelling District) and R-4 (High Density Apartment District) zoning classification located in the 100 and 200 blocks between Gore Boulevard and Ferris Avenue. AYE: Haywood, Warren, Bass, Hanna, Patton. NAY: Ewing-Holmstrom. ABSTAIN: Devine,

Shanklin. MOTION CARRIED.

(Title only)

**Ordinance No. 03-57**

An Ordinance changing the zoning classification from the existing classification of R-3 (Multiple-Family Dwelling District) and R-4 (High Density Apartment District) to C-5 (General Commercial District) zoning classification on the tract of land which is hereinafter more particularly described in Sections One (1) and Two (2) hereof; authorizing changes to be made upon the Official Zoning Map in accordance with this Ordinance.

AT THIS TIME COUNCIL WENT OUT OF ORDER TO ITEM #s 22, 23 and 25.

18. Hold public hearings and adopt resolutions declaring the structures at 804 West Gore Blvd. and 806 West Gore Blvd. to be dilapidated and dangerous, thus causing a blighting influence on the community and detrimental to the public's health and safety. Authorize the City Attorney to initiate legal action declaring a public nuisance in District Court and Neighborhood Services to solicit bids to raze and remove structures, if appropriate.

Angie Alltizer said the two structures are residential and have recently been acquired by a new property owner wishing to demolish all four structures on this property and take advantage of half off at the landfill.

Public hearing opened and closed at this time with no participants.

MOTION by Shanklin, SECOND by Hanna, to approve Res. Nos. 03-198 and 199 declaring the structures at 804 West Gore Blvd. and 806 West Gore Blvd. to be dilapidated and dangerous, thus causing a blighting influence on the community and detrimental to the public's health and safety. Authorize the City Attorney to initiate legal action declaring a public nuisance in District Court and Neighborhood Services to solicit bids to raze and remove structures, if appropriate. AYE: Patton, Haywood, Warren, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin. NAY: None. MOTION CARRIED.

19. Hold public hearings and adopt resolutions declaring the commercial structures at 1711 SW Sheridan Road; 11<sup>th</sup> & Grand Avenue; 1232 NW Cache Road; 1311 NW Cache Road; 2550-2554 Fort Sill Blvd.; 1202 West Gore Blvd.; 1304 West Gore Blvd.; 1306 West Gore Blvd.; 515 SW G Avenue to be dilapidated and dangerous, thus causing a blighting influence on the community and detrimental to the public's health and safety. Authorize the City Attorney to initiate legal action declaring a public nuisance in District Court and Neighborhood Services to solicit bids to raze and remove structures, if appropriate.

**1711 SW Sheridan Road**

Alltizer said this is a continuation of public hearings on commercial properties. This property was on the initial commercial property list we have been discussing since August. She told Council the commercial property list is not an all-inclusive list, they can add commercial properties as they come to their attention. She said this was just their initial list and initial undertaking in addressing some of the commercial properties throughout the community on main arterials. She said this first structure is a single commercial structure, the property owner is planning on tearing it down and has applied for a demolition permit today and would like reduced tipping fees.

Public hearing was opened and closed at this time with no participants.

MOTION by Haywood, SECOND by Hanna, to adopt Res. No. 03-200 declaring the commercial structures at 1711 SW Sheridan Road to be dilapidated and dangerous, thus causing a blighting influence on the community and detrimental to the public's health and safety. Authorize the City Attorney to initiate legal action declaring a public nuisance in District Court and Neighborhood Services to solicit bids to raze and remove structures, if appropriate. AYE: Haywood, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin, Patton. NAY: Warren. MOTION CARRIED.

**11<sup>th</sup> and Grand Avenue**

Alltizer said this commercial storage area is located on the northeast corner of 11<sup>th</sup> and Grand Ave., right across from the Lawton Regional Airport. She said there is one large structure and a storage area there. She said there are numerous semi tractor-trailers on site, several opened and unsecured and this property was put on the list because it's one the Mayor's Cleanup Task Force had identified as unsightly and on one of our main arterials across from the airport.

Public hearing opened at this time.

Steve Mansell said it was his understanding this is the first time this particular property has come before Council. His client has been in the process of moving the trailers and trying to do whatever he thinks he can do to make the property have more curb appeal. Mansell said to their knowledge, they have not been told exactly what they are suppose to do with this property. The building is sound and doesn't pose a fire hazard or risk of crime. He said the trees do not look good and can be removed. If Council has a problem with the trailers, they can be rolled off. He asked Council that if provided the opportunity to have a list of things needed done, they would do those. He said his client discussed this with Councilman Haywood three or four months ago and as far as they knew, they were

addressing any concerns. When they are summoned to appear and told that their property is going to be torn down because of dilapidation, it would only be fair for them to be advised exactly what the problems are so they could address those and wouldn't have to come before Council. If there is something that can be done to fix the problem, that is what they want to do.

Ewing-Holmstrom said they could make it leaseable. As a citizen of Lawton who frequents the airport for visitors coming into Lawton, this isn't something she wants to see, but it wouldn't matter if it was by the airport or not.

She said looking at this property and the other properties, if you don't see what's wrong with this property, we're not going to get anywhere tonight. She asked if there was a For Lease sign anywhere on the property. It doesn't even look leaseable in it's current condition. It's an empty building that's abandoned.

Mansell said it's not empty or abandoned, it's secured.

Ewing-Holmstrom asked what was in the building.

Mansell said it's a storage facility. He said beauty is in the eye of the beholder; you can come in and say that looks bad. If it looks bad to you, is that reason to bring a bulldozer in and tear down the building? If we're given a list to say specifically what you want done, it will be done. When we come down here, we don't know what is expected.

Hanna asked if Mansell had received a list of what was wrong with the property and what to do to correct the problems? He asked Bigham if they had been given a list of what the inspectors found and what is needed to correct these problems and bring them up to Code, to get them off the D & D list. Hanna said this is the second time Mansell has been down here saying the same thing.

Alltizer said it was Council's direction, at a previous meeting, we bring these structures for public hearings for condemnation and at that time, Neighborhood Services had stated we were in contact with all the property owners and working with them. She said she has met with Mansell at several of his properties, as well as Manny Cruz and Mansell has been working on the things identified to him at that time. She said Council's direction was to bring those structures for condemnation hearings.

Hanna asked again if any direction had been given Mansell, so these properties don't keep coming back to Council. If they don't meet the requirements later on, he suggests after a substantial amount of time, bring them back and give them D& D, but right now it sounds like they have no direction on which way to go, other than word of mouth, and that can change from minute to minute, day to day.

Alltizer said one of the problems they run into, from staff's position, if we go in and itemize everything needing to be done, that sets us up for missing something. We did provide an inspection check list to each property owner regarding the Property Maintenance Code violations. She said it is fairly simple and straight forward and you can do a self-inspection of your property and that is what we had hoped would happen; that owners would take the initiative, look at their own property and see what needs done. Several property owners on the initial list have done that, but we have met with individual property owners and pointed out certain things. Alltizer said she felt the direction from Council had changed by asking for these structures to be brought for condemnation hearings, so that is why we changed directions and the strategy has shifted.

Hanna said Mansell just stood there and said he has no idea of what is wrong with the building.

Alltizer said they would be happy to go and do an internal inspection, we have not gone inside this specific property.

Bass asked if this structure is declared dilapidated, are they then given instructions?

Alltizer said according to the ordinance, they have the fifteen day time period to come in and get a permit and we will meet with them and do an inspection. She said they have done that on some of the ones previously brought to Council. She said that is certainly an option, they have just not made any arrangements to inspect the interior of this property with the owner.

Devine said we are complaining about "in the eye of the beholder," and the first thing that comes out of Alltizer's statement is, internal inspection. It doesn't matter what the inside of the building looks like if we are trying to clean up the outside. There is always somebody wanting to get inside somebody else's property to look at what's in there. That does not concern them, if we are trying to clean up the outside. He said we went through this the last time and are going to go through it every time; we never make a list, but we can be the most aggressive people to tell you your property looks terrible, but nobody wants to tell you what to do to do it. What looks bad to one person, may not look bad to someone else and this is the bad part. Devine said he wishes he hadn't voted to give the extra money needed to give staff to work with on this. He said that was a major mistake on his part. We've got the tools to do what you're trying to do on our City Codes right now, because if Mansell was given a list of what to do on his property and didn't correct that, we can then file Maintaining a Nuisance on him. But he has to be given

guidelines on what's expected of him.

Haywood said he feels the problem is the trailers and if they were gone, he doesn't think the building is the problem, it's the trailers and trees needing cut; if that was done, he didn't think there would be a problem.

Shanklin said also the debris and he doesn't see anything wrong with the building. He said Mansell came down here a year ago and acted like he did not receive a letter and brought his attorney in just to ask what we wanted done. He said Mansell had the letter and has been told what was needed.

Warren said the list we keep talking about sent with these letters. He said there's not 5% of the buildings in Lawton, Oklahoma that would pass everything on that list. There are things on that list such as your building is not allowed to allow rodents in. You can't use that as a list of what they have to do. He said he would be happy if we would just give these people a list, commercial and residential, saying this is what you have to do and not come back in two weeks saying Council is putting the pressure on. That's the position we have put Alltizer in and that hasn't been fair to her. It is not her fault, we are the ones who did that. If we could just give the property owner some direction.

Ewing-Holmstrom said she didn't care how many letters were sent, anybody looking at this property can tell there's debris and it needs cleaned up. It's against City Code to have a bunch of junk around your building. She asked when the last time there was water service or any type of utility on in this building?

Alltizer said she did not find a record of that.

Ewing-Holmstrom said we have actually done D & D on houses that have been vacant with no water service that have looked better than this. She said it doesn't take a genius to figure out this property needs to be cleaned up and whatever's inside, great, but there is debris all over it and she told Mansell not to pretend like he doesn't see the junk.

Powell said he tends to agree with what he's heard on the Council floor this evening. He doubts his task force would never have put this on the list if those things seen in the picture; the sign leaning against the building, trimming of trees needed, and all that debris laying around hauled off and cleaned up, he told Mansell he probably wouldn't have been down here tonight on this piece of property.

Further discussion back and forth between Council and Mansell was held, with nothing new stated.

Patton asked if this could be tabled for a few months to allow Mansell time to get this cleaned up. He said it's a few days before Christmas, he has several properties and he is here obviously wanting to make an effort to do exactly what we would like him to do and he feels we should give him some time.

Powell asked Patton if he was suggesting tabling this item or this particular property.

Patton said this particular one or how many other properties he has here today.

Hanna said he has at least two or three more coming up.

Patton said he would table all of them then until we can give him some direction and give him time to do it.

Bass said if we put this on D & D, it doesn't come in front of Council anymore and we don't have to mess with it any longer. It gives Mansell fifteen days to get a permit and gives him 90 days to get it cleaned up. We don't have to keep seeing the same people over and over again on the same properties.

Mansell said he sees what Bass is saying but asked if Bass could see the stigma on him to have his properties declared dilapidated when they don't feel they are.

Bass said they won't be dilapidated if you get it done in 105 days.

Mansell said if the only reason we are down here is because the trees need cut and the trailers need moving, why should they be put to the burden of going to litigation on the dilapidation and be tagged and targeted with a dilapidated structure.

Bass said you wouldn't if you'd get your permit and get it cleaned up.

Mansell said he disagreed, to them it is a huge inconvenience and expense to have a piece of property declared dilapidated.

Shanklin said if Mansell has not been told what needs done, that needs to be done and any other properties on



here; if we haven't specifically said what we want done. He needs to know exactly what he needs to do and doesn't need to bring an attorney down here, to ask us what we want done. If it isn't done in the appropriate, specified time, we have other means.

Powell said Alltizer was given direction by this Council, very explicitly, to bring properties that had been identified, the people notified, and they hadn't corrected the problem before Council. He said never, to his knowledge, has Alltizer been given specific things to tell the property owners what is expected of them. We need to eliminate the confusion on this, go back, identify these properties and identify exactly what we want done.

Hanna said on 1311 NW Cache Road, formerly Nite Tracks, he went to Mansell, talked to him about this and he did what was asked of him. He said looking at this, nothing has changed on it and didn't know why it was brought back again.

Ewing-Holmstrom asked if they had received any notification on 11<sup>th</sup> and Grand ever? How long have we been dealing with this property in the condition it's in.

Alltizer said she could only speak for the last three and a half years she has been employed with the City. Most communication regarding this property has been verbal with Mansell, he might have got a tall grass and weed Administrative Order, but in his defense, he has been working on the properties brought to his attention. He has cleaned up behind the structures on Gore, but Council changed the direction given at that time, to bring them before you. She felt some progress was being made on these structures.

Ewing-Holmstrom asked about the guidelines Alltizer gave out at the last Council meeting. Do those apply just to residential or they for residential and commercial?

Alltizer said they are for both residential and commercial; that's what is defined in the Property Maintenance Code. She said what she gave Council was actually the State Statute, which we have incorporated into our City Code, so it reflects the same thing.

Ewing-Holmstrom said she was trying to point out there are clear and set rules and as a business or residential owner, they should know the Code, especially as a business owner.

Shanklin said he believes the problem is Mansell is going to want to do all this work himself and not going to hire anyone. If we are not going to force him to hire someone, somebody will be sitting here ten years from now on the same thing. He asked Mansell if that wasn't right?

Mansell said of course it's not.

Shanklin said his point is, he would like to help Mansell, but he can't help him if he is going to do these all by himself. He said Mansell works hard, but, he can't do it all by himself.

MOTION by Patton, SECOND by Haywood, to table all remaining properties on the agenda; 11<sup>th</sup> & Grand Ave.; 1232 NW Cache Road; 1311 NW Cache Road; 2550-2554 Fort Sill Blvd.; 1202 West Gore Blvd.; 1304 West Gore Blvd.; 1306 West Gore Blvd.; 515 SW G Avenue and give direction to Alltizer to make a list of specific things to be done. AYE: Warren, Hanna, Devine, Patton, Haywood. NAY: Bass, Ewing-Holmstrom, Shanklin. MOTION CARRIED

20. Consider approving a resolution authorizing and calling for an election in the City of Lawton, State of Oklahoma, for the purpose of setting the dates for the 2004 primary and general municipal elections of the designated City Council seats, setting a ballot title; and authorizing the Mayor to issue an election proclamation.

Powell said the word Mayor is missing on the agenda.

Vincent said this is an election for the seats of the City Council, which includes the Mayor; for Mayor, Ward 1 and Ward 2. The date of the election is March 9, 2004, the run-off, if needed, will be April 20, 2004 and the filing period will be February 10, 11, and 12, 2004, from 8:00 a.m. to 5:00 p.m. and these will be for three year terms. This has to be filed with the County Election Board by January 9, 2004.

MOTION by Shanklin, SECOND by Warren, to approve Resolution No. 03-201 authorizing and calling for an election in the City of Lawton, State of Oklahoma, for the purpose of setting the dates for the 2004 primary and general municipal elections of the designated City Council seats, setting a ballot title; and authorizing the Mayor to issue an election proclamation. AYE: Hanna, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Bass. NAY: None. MOTION CARRIED.

21. Consider an amendment to Section 6-1-1-105 and Section 6-2-1-203 of Chapter 6, Lawton City Code, 1995 which modifies the requirements for gravity backwater valves in the International Residential Code and the International Plumbing Code, providing for severability and declaring an emergency.

THIS ITEM WAS STRICKEN.

22. Consider amending Section 22-2-3-232, Article 22-2, Chapter 22, Lawton City Code, 1995, limiting sales to outside commercial and industrial users.

Warren said he would like Council to consider this, he believes it has dual purposes; 1) to encourage businesses to locate within the Lawton city limits. He said it's to our advantage we do this. We've provided industrial sites where that's available; and 2) it also gives us a little bit of control on what happens on the rim around the city limits of Lawton where we normally would have no control.

Shanklin said he's not sure where it is.

Powell said it's anywhere. He said Warren is saying, we will not sell water to anybody outside the city limits unless they're a big, by the description of the City Code, volume water user.

Warren said that is correct.

Ewing-Holmstrom said she knows what Warren is trying to do with this and admires his efforts, but, the City's broke, if we can make money on selling our water, we might as well, that's what we've been doing all along and we're not going to stop, regardless of what size the business is.

Bass said to make them large water users, that's 10 million gallons, you would have to be in the industrial park to fit into this program. He doesn't see anything wrong with the small businesses, if you can't get inside the city limits. Surely you've got to sell them water.

Haywood said he agrees with that, we have to give it to people on an individual basis.

Bass said according to what we have already, they have to bring things up to City Code, in order to receive water on the outside.

Vincent said depending on which way the Council wants to go. He said if you look at paragraph 2 under Section A, you are adding the word industrial, because right now, bringing up to Code only applies to residential and commercial, so if the Council wants to require residential/commercial and industrial to come up to Code, that would be a change we need to make, in addition to or in lieu of Subsection A, which is the large volume, so you may want to do part of this and not all of it. If you do that, we need to change a word in line 5 and a word in line 6, to add the word industrial. That would be an option versus the large volume customer.

Warren said he could live with that.

Nick Garrett said he is here on agenda item 23 which addresses the issue if this ordinance passes, it makes moot, item 23. He said Bruton Construction is trying to put a water meter in an area that is not within the city limits of Lawton and he's not a large industry like Goodyear, etc. For the people who want to do something small, such as Bruton Construction and the like, that's going to bring business to Lawton, that ordinance is just too broad. He doesn't think it should be passed, it should be on an individual basis.

Warren said his concern is over the ability to control what would normally be a zoning issue. If you have a housing addition on the boundary of the city limits, currently, a business industry, a smelting plant, etc., could locate on the other side of that line and we would have no control over that. He asked if that was not correct?

Vincent said other than if it's residential/commercial, they would have to meet the current Code for development, not zoning, but just the development part.

Warren said part of his attempt is to be able to control what happens on the fringe. If the County had a zoning system where we could do some time zoning outside and we would have a little control in that direction, as far as knowing what's going to happen and you know that's an industrial park and so we're not going to locate a residential area across the street in the future, that's where he's trying to get.

Powell asked Warren if his issue could not be addressed on an individual basis; we would have to know what the business is.

Vincent said when we did Shilling Electric, we put this Code in and we were not concerned with industrial and Shilling Electric did develop to the Commercial Code with the parking lot and built his building to the Commercial Code, with inspections. If we would merely add the word industrial to our current outside water sales contract, we may accomplish the same thing Warren is after. They would have to develop their industrial area to meet the City's Industrial Development Park.

Devine said his same concerns are basically the same as Warren's. The only thing he is concerned about is that is going to be right on the fringe of our city limits, plus it's right across the street of a new development, a residential area. This is in Park Ridge Addition. He said he doesn't have a problem letting them tap onto the city main on a temporary basis, but to allow that to become a permanent structure or permanent industrial business, in a residential area, he just doesn't see how Council can support that. He said we already have a batch plant inside our city limits that's on a temporary basis, right now, to do construction work and they have their final six month permit, then they're going to have to move, because we don't want it in a residential area. He said he can sympathize with him, he needs that plant there, because he's going to be doing construction work and his trucks are going to be constantly running right across the middle of our town. Devine said for a temporary basis, but to be a permanent structure, he cannot support that.

Powell said to stick on item 22 about completely eliminating outside water sales as Warren has asked for, with the exception of the big volume users. He asked Council if this is what they want to do.

Bass asked how we did it for homes outside city limits?

Vincent said once we pass this particular revision to Section 22-232, residential/commercial outside sales, had to be brought up to City Code, whether it was a subdivision or an individual structure or a commercial establishment like Shilling Electric.

Bass asked what the difference is.

Vincent said this would add two things; it would add industrial, which it doesn't now cover and with Warren's suggestion, we added the large volume, so this would prohibit commercial or industrial that are not large volume, you would still have residential. If you don't want to worry about the large volume, then you can just add the word residential in paragraph 2 in the appropriate places and we can still have a developmental code apply, by contract, with the buyer of our water. They would either meet our developmental code or they wouldn't; their contract would be terminated.

Devine said we could eliminate that by annexing that in out there.

Vincent said that is another possibility.

Warren asked if we could add, under A, where it says, sale of water to commercial and industrial users shall only be allowed if user meets the definition of large volume; could we add permanent. Is there anyway for us to differentiate between permanent and temporary? That would allow us the ability to go in and give somebody a temporary permit.

Vincent said actually we could strike A and the Council could add temporary permit not to exceed a specified period of time.

Patton said it seems like we are really getting ourselves in a box here. He said he agreed with Warren and we should encourage businesses to locate within the city limits. His concern is this is a little too restrictive.

Shanklin said he doesn't know how we can isolate ourselves by making everyone come to us. It's a yearly contract now. He said every contract we have outside the city limits is on a yearly basis.

Vincent said no, some are duration contracts, some are forever.

Shanklin said individuals then are not, but associations are?

Vincent said some of our associations are yearly contracts, but, Pecan Valley, is not, it's a forever contract. Medicine Park is a yearly contract.

Shanklin said he doesn't know what we are trying to do in item #23. He asked if we were trying to eliminate #23?

Warren said no, his suggestion on #23 would be we give them a temporary pass. His concern on #22 is the zoning aspect; the neighborhood versus the smelting plant or the pig farm, etc. He doesn't know what methods we have to prevent things that doesn't need to be across the street from a residential area. He asked how we can keep that from happening?

Powell said by dealing with them on an individual basis.

Warren said the point is, we can't prevent them from doing it. If they want to put a smelting plant in, they are going to and there is nothing we can do to stop them.

Powell asked Vincent is we could, in a situation such as this, deal with those individually and control what is going in there, to eliminate Warren's concern.

Vincent said yes we can, as long as we do it non-discriminatorily.

Shanklin said he thinks we should do this on an individual basis.

Vincent said staff's recommendation, at this time, would be to add industrial to paragraph 2, on lines 1, 5, and 6 and change Subsection A, to allow Council, on a case by cases basis, to authorize a temporary tap.

Powell asked if this means every outside water sale we have, from this day forward, is going to be a temporary tap?

Vincent said, no, in addition to the permanent taps, the temporary tap would not have the development standards.

Vincent read the ordinance title prior to vote.

MOTION by Warren, SECOND by Haywood, to approve Ordinance No. 03-58 with the changes, as stated by the City Attorney, amending Section 22-2-3-232, Article 22-2, Chapter 22, Lawton City Code, 1995, limiting sales to outside commercial and industrial users. AYE: Warren, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin, Haywood. NAY: Patton. MOTION CARRIED.

(Title only)

**Ordinance No. 03-58**

An Ordinance pertaining to utilities amending Section 22-2-3-232, Article 22-2, Chapter 22, Lawton City Code, 1995, limiting sales to outside commercial or industrial users, providing for severability and since the agenda item did not advertise it as an emergency, it would not be an emergency ordinance.

23. Consider an Agreement for the sale of treated water between the City of Lawton, Oklahoma and Bruton Construction Co., Inc.

Vincent said the application from Bruton Construction Company was received on November 11, 2003, it was filed, at their request, at the earliest possible opportunity. He said it is staff's understanding, this is for a permanent tap on Lots 3, 8, 24 and 30, Block 8, Wedgewood Addition. It is approximately a quarter of a mile south of MacMahon Park and immediately accross 38<sup>th</sup> Street east of the Parkridge Addition.

Shanklin said he wanted to know the other surrounding residential areas.

Powell said Kent Waller's is immediately to the southwest, Shilling to the west, Rolling Hills is accross the street, west, and Parkridge is just northwest from it.

Bass said, in order for him to buy water, he has to abide by City Codes. So everything has to be Code perfect, by the City, in order to sell him water.

Vincent said based on the ordinance just passed, if Council authorizes a permanent tap, he will have to meet the development standards for an industrial complex, on this property. His price would be the current outside water sales price of \$3.24 per thousand. The price is established in the Code Book, which is 1 and a half times the \$2.16. The contract is on file in the Clerk's office and we found a major mistake in it in the review and it will have to be rewritten and if Council chooses to approve this, which is not a big problem, to go along with the Code.

MOTION by Haywood, SECOND by Ewing-Holmstrom, to approve the sale of treated water to Bruton Construction Company, Inc.

Vincent asked Haywood if he agreed that the current contract on file in the Clerk's office needs to be rewritten to comply with new Code.

Haywood said yes he agreed to that.

Devine asked if this was granting him a permanent tap?

Vincent said that's the motion.

SUBSTITUTE MOTION by Warren, SECOND by Shanklin, to table this until such time that staff can provide an overhead of the surrounding area and to give the applicant the opportunity to discuss and decide, if it is Council's direction it be temporary, what length of time they would need it. AYE: Hanna, Devine, Ewing-Holmstrom, Shanklin, Patton, Warren, Bass. NAY: Haywood. MOTION CARRIED.

24. Consider amending Council Policy No. 6-3 regarding Damage Claim Mitigation Payments for sewer backup prevention.

THIS ITEM WAS STRICKEN.

25. Consider adopting an ordinance pertaining to personnel regulations that amends Section 17-1-4-136, Chapter 17, Lawton City Code, 1995, providing for the reinstatement of merit step increases in the general employee pay plan, establish severability, and declaring an emergency with an effective date.

Mitchell said in the preliminary budget submitted to Council on May 6, 2003, we noted the City would need to take steps to slow the growth in wages and benefits for all employee groups. It was also stated our goal would be to promote employee equity to groups. He said earlier this year, we settled two unions contracts which now raises the question on how the City attempts to address the general employee work force and what form of salary adjustment can be made to provide this group of nearly 500 employees to a similar benefit. He said after adoption of the budget this year, steps were frozen for all eligible general employees, resulting in an estimated savings to the City of about \$260,000. In addition, the adopted budget called for a single furlough day that would generate an estimated savings of nearly \$120,000. He said it should also be noted that general employees were required to convert their sick leave benefit to a terminal leave program and longevity would no longer be made available to new employees hired after July 1, 2003. Mitchell said if you look at the accumulative effect of all the above described salary adjustments, we estimate the cost to the City during the current budget year, would be slightly above \$600,000. The City's unaudited fund balance, presently, is estimated to be \$1,891,000, which reflects the 5% reserve for the general operating fund, which Council indicated was their target or goal for our operating budget. He said it is staff's opinion the most equitable alternative for Council to consider would be to reinstate step increases for all eligible general employees, on July 1, 2003. Implementing the step increases would cost the City about \$260,000. He said the possible second alternative would be to consider implementing the merit step increase in January, rather than July, which reduces the salary expense by about \$90,000. Mitchell said regardless of when the salary adjustment is made, they believe it is appropriate to drop the proposed furlough day for all general employees, since the City was unable to win the right in negotiations with firefighters. He said should Council agree to making the salary adjustment, rather it be January 1<sup>st</sup> or July 1<sup>st</sup>, staff suggests an implementation date of December 22, 2003, so those pay changes can go into effect immediately.

MOTION by Hanna

Ewing-Holmstrom said this is a little confusing; in one aspect you are asking to unfreeze, which makes sense, and then it says 1 1/2% for all general employees. She asked is this is asking to unfreeze the Pay Plan as it was set up five years ago.

Mitchell said no, just award the steps, for those employees eligible, beginning July 1<sup>st</sup>.

Ewing-Holmstrom asked if this would change the Pay Plan set up five years ago.

Mitchell said it would not. It will not have any effect on that Pay Plan.

Shanklin said he did not understand how that could be and asked Tim Golden about a survey, where we went 127%. He said 127% means in 10 years, all general employees would be equal to any of the surrounding areas and asked Golden if he was familiar with this?

Golden said he was aware of this plan, he believes it was done in 1998 or 1999 and was a plan based upon the market at that time where an employee would begin in Step A which would be 80% of the market, and when they maxed out, they would be 120% of the market.

Shanklin said 120% of the market means where the market is 100%, they're 20% above that.

Golden said that is correct, as of 1999.

Shanklin said that was a 10 year plan. He said in that time frame we have given some raises.

Warren said what we're trying to do tonight is to undo what we did at budget this year. He said there were steps due to employees, that we, in order to balance the budget, took away. We weren't changing the Pay Plan, we were continuing the Pay Plan and a certain number of employees deserved a step; we took that step away in order to balance the budget.

Shanklin said all we're doing is putting it back.

Powell said it is not taking anything from them they didn't already have, it's simply giving back to them what was taken away during the budget workshop. This brings them back in line with what's been done with the other

working people in the City of Lawton, namely the Police and the Fire.

Ewing-Holmstrom asked about the furlough day and the City being unable to win the right to furlough firefighters. She said part of the negotiations were they were willing to actually go for layoffs instead of using the term furlough?

Mitchell said that statement was made in the arbitration hearing and we didn't win the arbitration, but the statement was made in the arbitration hearing that they would prefer layoff to furlough.

Ewing-Holmstrom asked where are we going to get the money for this?

Mitchell said you have your fund balance. You have the money for this year and he couldn't promise we'll have the money next year and that's the down side of providing additional wages and benefits. He said as we alluded to when we talked about the Fire contract, the impact of the Fire contract is bigger next year than this year.

Ewing-Holmstrom said that has nothing to do with what we're talking about right now.

Devine said this Council should really consider, in the future, with all our negotiating with general employees and the two unions, is every time we give a raise, it's on a percentage basis and the person on the bottom of the totem pole gets 2 1/2%, which doesn't equal to the person at the top, who gets 2 1/2%. He said if we are going to give, for an example, a 2 1/2% increase to the Fire and Police Unions and General employees, is to take all of what that raise would be for every individual employee, pool all that money into one group and then divide it equally among the 800 plus employees and give them a raise where everybody actually gets an equal raise, once. He said there is a glitch to that, you couldn't do that every year for the simple reason, the bottom personnel would get up with the top personnel, but you could do this every two, three or four years, in which it gives a larger percentage raise to the little guy instead of the big guy. He said that is something Council really needs to think about.

Powell said he believes that is called a stipend.

Shanklin said we have 132 employees making between \$20-25,000 annually, 136 making between \$25-30,000, and this was in April 2003. He said if you gave everybody this same \$500, there is not any difference between these. Those making between \$20-25,000 will not get any closer to those in the \$25-30,000 range, but they all got the same amount of money. He said he has a hard time giving the 3% to the \$35-40,000 people and the \$20-25,000 people the same 3%, because it grows. You will find out that some of our people are making \$25,000 more than their #1 Supervisors; that was true down at the City Barn when we passed this.

Warren said the union is not going to play that game. We are going to end up doing the same thing we are now and that's going to be treating general employees different than the unions, because he doesn't think we will ever convince the unions to take an even amount.

Bass asked how much reserve will we have left once we do this?

Mitchell said we are only six months through the budget year, so if Council approves this recommendation and we look at all the employee groups and the cost to provide those wages and benefits, it will reduce this \$1.8 million by \$620,000, so you will be back to about \$1.2 million, if everything else is equal and that's about where we thought we would, at the beginning of the year, end up.

Bass asked about the \$1 million taken out of rolling stock; we're not going to put this million dollars back into it?

Mitchell said we fully funded the Capital Outlay Program this year.

Vincent read the ordinance title prior to vote.

SECOND by Warren, to adopt step 1, make it retroactive to July 1, 2003 and approving Ordinance No. 03-59 and change as presented, pertaining to personnel regulations that amends Section 17-1-4-136, Chapter 17, Lawton City Code, 1995, providing for the reinstatement of merit step increases in the general employee pay plan, establish severability, and declaring an emergency with an effective date. AYE: Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Bass, Hanna. NAY: None. MOTION CARRIED.

(Title only)

**Ordinance No. 03-59**

An Ordinance pertaining to Personnel Regulations that amends Section 17-1-4-136, Chapter 17, Lawton City Code, 1995, providing for the reinstatement of merit step increases in the General Employee Pay Plan, establish severability, and declaring an emergency with an effective date.

MOTION by Hanna, SECOND by Warren to take a ten minute break. AYE: Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Bass, Hanna, Devine. NAY: None. MOTION CARRIED

The Mayor and Council recessed for a ten minute break at approximately 7:33 p.m. and reconvened in regular, open session at approximately 7:45 p.m. with roll call reflecting all members present.

COUNCIL RETURNED TO CONSECUTIVE ORDER (ITEM #18) ON THE AGENDA AT THIS TIME.

26. Consider adopting a resolution approving modification and revision to the City's existing pay plan for the Public Works Director, modifying the personnel schedule of the FY 2003-2004 budget, and declaring an effective date.

Mitchell said approval of this Resolution changes the pay grade for the Public Works Director from MG13 to MG15, pay grade increase reflects the additional responsibilities assigned to this position. The cost to the City in changing the pay grade of the Public Works Director is \$1,990 for the balance of this year and \$3,981 annually.

Shanklin said this is not near the pay raise this gentleman is entitled to, in his opinion.

Powell said he had a request from Renee Plata to speak on this item.

Plata said she understands the Public Works Director is maxed out and is at the end of his step raises. She said the only thing she is wondering about the other people who are maxed out at their step raises and is there any consideration for those people?

Powell said we are dealing only with this particular item tonight and that is not a part of this.

Plata said she wanted Council to know that he isn't the only person, she realizes he's management, this is something Mr. Mitchell's asking and she didn't see it anywhere else. She said another thing is her particular position was rifted and wasn't offered to her....

Powell said we are not getting into personality or personnel other than this one item and that's it. He said Plata asked during the break to speak and he has granted that, Mitchell has answered her and Ihler has, for the last two years, been at the top, as far as he can go, so he's responded to her question.

MOTION by Shanklin, SECOND by Haywood, to approve Resolution 03-202 approving modification and revision to the City's existing pay plan for the Public Works Director, modifying the personnel schedule of the FY 2003-2004 budget, and declaring an effective date.

Ewing-Holmstrom asked where all the money is coming from? She said six months ago, we were in trouble. Are we going to have to come back later and increase the water rates? She said she is all for giving people the money they deserve, their raise, their pay, but this agenda is full of giving money away.

Mitchell said this started when you approved the Police contract. He said when we adopted the budget, we had frozen salaries, you were taking a very strong stand with all our employee groups, and once you approved Fire and Police contracts, then you had the General Employees. He said our fund balance has improved and he wasn't suggesting it will continue to improve, but you do have an improved fund balance.

Ewing-Holmstrom said the point she is trying to make is, we increased water rates to balance our budget and that tells people we are broke. She received calls from people saying we balanced the budget through increasing the water and there was no money, and now we have money, so she wants an explanation as to where this money is coming from that we are dishing out. We still have to answer to the people.

Mitchell said we cut a number of positions in the budget and one of the positions we cut was the Director of Operations in Public Works, which was an \$82,000 annual salary.

Ewing-Holmstrom asked if there was money in this department for this.

Mitchell said yes.

Warren said in no way, in his opinion, this has to do with the fact that Ihler is stepped out. This has to do with the responsibility he shoulders everyday, it has nothing to do with the steps, this is an attempt to pay him for the amount of responsibility we have afforded him.

Powell reminded everyone that this city took many measures in freezing salaries and freezing hiring, last year, to get in the financial condition we're in right now. He said it's not like we have been throwing money away and hiring everybody that comes down the street and off the corner, that has not happened.

A vote on the motion was held at this time.

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

27. Consider approving a re-organization of manpower within the Public Works Department.

Shanklin said we've just gave the man a raise that is way past due and still underpaid and if that's what he wants I'm going to approve this, under Ihler's direction.

Reggie Blackhole, Plant Operator, from the Public Works Department stated his concerns this re-organization would have on the existing employees.

Ihler said in regards to the employees out there, this will have no impact, we have a vacant position for a plant operator, and are wanting to upgrade that vacant position to an Electronic Technician/Instrumentation Tech because the skills required to take care of our instrumentation out there, are at a greater level than what a Plant Operator would do. He said this provides us the opportunity, instead of contracting out those services, to go ahead and hire somebody that will take care of those items and this person will be utilized at all three locations.

MOTION by Shanklin, SECOND by Ewing-Holmstrom, to approve a re-organization of manpower within the Public Works Department. AYE: Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Bass, Hanna, Devine. NAY: None. MOTION CARRIED.

28. Discuss and provide direction concerning amending Chapter 14, Lawton City Code to adopt the Model Regulations of Manufactured Homes as recommended by the Manufactured Housing Association of Oklahoma.

Bigham said this was brought to the Council a couple meetings ago, there was some strategy used to use the Building Code, as an effort to try to remove some of these, less than desirable residential dwellings, in some of our neighborhoods. Since then, we have looked at the Federal Statutes that exempts Municipalities from enforcing Building Codes on certain mobile homes. So it was tabled. At that meeting we looked at a different approach. He said he had visited with the Oklahoma Manufactured Housing Association in Oklahoma City and they have put together the model ordinance which is in Council's packet. It's not in City Code form at this time, but he thinks the concept they have put together is something that would be very beneficial for the City of Lawton to look at. He said this goes back to the discussions we've heard tonight on what looks good and what doesn't look good, if we have an interest in what our residential areas look like. He thinks this model ordinance has some very good points to it. Essentially, this ordinance is suggesting if you put a manufactured house in a stick-built residential area, let's make it look like the rest of the houses. Right now, our City Code does not give any difference in the 1959 round-back pink mobile home compared to some of the very nice mobile homes or manufactured homes you see have pitched roofs, the same veneers we have on our stick-built homes. We don't have any meat in our Code right now that would prohibit some of these older mobile homes from being put in any area. Bigham said he had a conversation with one Council member recently, and if somebody comes in to apply for a mobile home permit or a new subdivision, on the west side of town, we will issue that, pick any subdivision in town, we will issue a mobile home permit, of any description, to go in that subdivision. He said personally, he doesn't think that is right. There is added protection at the newer subdivisions where homeowners can take them to District Court to enforce the plat restriction, but he doesn't know if that's what we really want to do. He said we need to have a uniform code for manufactured homes or mobile homes, throughout the city we can all live with.

Ewing-Holmstrom said she doesn't think you're going to get an argument from the Council, it's a great idea and should have been done a long time ago. Her question was, if we don't have the money in the budget, the manpower, or the tools for our staff, for currently trying to enforce codes, how are we going to enforce this? She said it's a great idea and it's great to have it on the books, but, you're going to need tools to enforce this and how are you going to do that? Where's the follow through?

Bigham said once we have the tools in place, they'll go through the building permit system.

Ewing-Holmstrom asked how and are you going to put in more inspectors? We have mobile homes sprinkled all over this town.

Shanklin said those are grandfathered in.

Bigham said that's going to be one of the issues we are going to have to deal with. What to do with the ones that are already in place. We're going to have to have either some kind of amortization clause in the ordinance saying they've got to be gone in five years or if they're replaced, you cannot put a new one in. Right now we have nothing.

Ewing-Holmstrom said she agreed with that.

Bigham said it will take manpower to do it, and what standard do you want this community to have? You're going



to have to pay for that manpower.

Devine said it's his same old gripe; if you can't buy a brand new nice big fine shiny mobile home, you are just SOL. He said this aggravates him that we come in here and want to start dictating what people can have. He gave an example and the reason this really bothers him. He said his mother-in-law is 80 something years old, if she lives another five years and you do what you're wanting to, she is going to have to tear her house down and move. He said that's the only livelihood she has, but you're gonna say in five years, "Helen, you move out of here, we're going to tear your old house down because it ain't pretty no more, it's not brand new." He said he cannot do that and it is wrong.

Shanklin said Council was not saying that.

Devine said that's exactly what you're saying and that's just what Bigham said out there.

Shanklin said it's not and Devine's mother-in-law's place looks as good as anyplace.

Devine said Yes, as good as any home in Lawton. He said in five years she's gonna have to tear it down if Bigham gets his way.

Bigham said this is not in ordinance form, it's going to be the decision of this body to enact whatever regulations they wish.

Devine said no, it's what Bigham wants and has pushed for.

Bigham said he has not presented any ordinance on item 24 to the Council, this is it's first appearance before this body. He said he was simply trying to provide a more reasonable way to have the plumbing code, if that is what Devine was referring to.

Devine said that's exactly what he was referring to.

Bigham said this is the first time it's been initiated to this body.

Bass said he doesn't think you have to worry about condemning trailer houses, you can't even condemn houses.

Powell said you all are living in a different town than I am. I've seen lots of trailers.

Shanklin said he wanted to make a motion that we give direction to staff.

Bass said not if somebody owns them and knows somebody, then you can't get them torn down.

Shanklin said that may be.

Ewing-Holmstrom said she seconds whatever Bob was going to do.

Shanklin said all he was trying to do is keep someone from moving a dilapidated house on the north side over to the south side.

Devine said he agreed with Shanklin 100%.

MOTION by Shanklin, SECOND by Ewing-Holmstrom, to adopt consideration number two and let staff bring back something we can look at and get on the book as how to handle mobile homes, manufactured homes, etc. AYE: Shanklin, Patton, Haywood, Warren, Bass, Hanna, Devine, Ewing-Holmstrom. NAY: None. MOTION CARRIED.

29. Discuss entering into an agreement with Comanche County to allow Sheriff vehicle's to utilize the City of Lawton wash bays during normal business hours and take appropriate action.

Devine said he received a call from Under-Sheriff John Stowe asking if something could be worked out because with the new jail now in place, they don't have the ability to wash their vehicles. They are asking for a temporary agreement with the City to allow the County to wash their Sheriff vehicles during our working hours.

John Stowe, County Under-Sheriff said about six months ago he spoke with some people about using the City's wash bays, which was restricted to City vehicles at that time. He said over the last three to four months, the jail has been reassigned to different control. He said they did use trustees to clean and wash the Sheriff Department's vehicles. He said he is coming before Council as a private citizen. The wash rack is not usable all the time because of some overflow. They have no place to wash them, some deputies are taking money out of their own pockets to try to keep those cars, clean and neat looking. He said they have some good looking vehicles and would like to keep

them looking as nice as they can. He said if this is a situation where it needs a contract, that would have to go before the Board of County Commissioners.

Shanklin asked how many cars they have.

Stowe said approximately 35-40 vehicles.

Shanklin asked how often.

Stowe said it depends on the weather. We would have more exposure than Municipal vehicles because we cover the dirt roads. He said some have to be washed two or three times a week, some less often, it's hard to say.

Powell asked Stowe if they would have any maintenance on their part because they are out on the county roads and come in with a lot of mud, dirt and gravel, etc. and it will be left in those wash bays. He asked if they would provide any service to help out there.

Stowe said that is something the Commissioners could answer. He said we have no access to trustee labor at this time.

Powell asked who pumps our pits out.

Ihler said we have our own vacuum trucks that pumps them out.

Shanklin asked Ihler how much hindrance would this be.

Ihler said our pumps are four gallons per minute, so minimal cost on the water and minimal cost on the soap. He said it would really be the time, the additional vehicles. He said we have a special rack just for the police cars and they may have to wait a few minutes to get their cars washed; it's just the timing. He said if they came down and washed them in the evening hours, when there's no rush on the rack, would probably be very minimal.

Vincent said there would have to be contract with the County on this. Even if there wasn't a dollar change hands, there is the issue of damage to property, either their property or ours, there has to be an agreement.

Warren said he didn't have a problem supporting this if we give direction to staff to bring back a contract that addresses liability and financial issues.

Devine said he agrees with Warren.

MOTION by Devine, SECOND by Warren, directing staff to bring back an agreement with Comanche County to allow Sheriff vehicles to utilize the City of Lawton wash bays, with said agreement addressing liability and financial issues. AYE: Patton, Haywood, Warren, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin. NAY: None. MOTION CARRIED.

#### REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Haywood thanked the City of Lawton for allowing him to attend the National League of Cities Conference in Nashville. He said he had attended several meetings, went on a tour and really enjoyed his time there. He said they had discussed the "No Child Left Behind" program, coming into effect in 2014, Early Childhood Education, we received an award in and they met people we will be dealing with later, know them on a first name basis and when we call Washington DC and ask for resources, we may be able to get those resources because we attended the meeting. He said you have to network in order to see money, in this time and day.

Warren said he wished to make everyone aware that the Comanche County Nutrition Program is funded dually by the City and County, by money or in kind and it appears that the County hasn't paid their portion of this since October, which amounts to about \$3,000. He said Leisure Services had sent a letter requesting those funds and the response we got back from Commissioner Pope was, (which he read verbatim), a message left on an answering machine: "Regarding the bill for Patterson Center and HC King, the County doesn't have the money to pay this. We have talked about this. We need to come to an agreement or we are going to have to do something, because we can provide food, but we can't continue to pay for Patterson and HC King in the way we are doing right now." Warren said there is a contract in place and if the County is in such dire straits that they can't follow through on a contract in the amount of \$3,000, he said he thinks we have a real problem and the citizens of Comanche County need to know that. He said he hopes everyone hearing this and hopefully will read this tomorrow in the paper, will call Mr. Pope and express their dismay at the fact that the County doesn't have \$3,000 to pay for the Nutrition Program.

Shanklin presented Ewing-Holmstrom with a bag of items from the NLC Conference in Nashville. He said the City gives us \$38 per day and wanted to share with everyone just how far that went. He said it was \$36 to get from the

airport to the hotel, breakfast was \$12, plus your coffee or milk, plus a tip, steaks began at \$42, a taxi cab was \$30 to go to Shoney's to get something in our class, which is about \$8 and then it was \$38 back, so he said we could have had that steak or split one. He said Opryland was overwhelming for him, he got lost everyday, on the hour. He said it is 48 acres on the roof, some of it 200 feet high. He said if you drove your car, it was \$17 per day for parking. He said the exhibit room was very interesting and he brought back some tools he feels we can be talking about in the future. He told Ewing-Holmstrom he wanted her to go next year.

Ewing-Holmstrom said she just doubts the City can afford it.

Shanklin said yes the City can and we can't afford not to go.

Bass said in the budget we took away \$1 million from the rolling stock, which was a million dollar gift and everyone pays \$3 per month on their utility bill for that and somehow it got into the general fund and you didn't have to pay it back. He said as long as you're giving all this money away, just remember you got a million dollar gift that you never paid back.

Ewing-Holmstrom said as you and your families gather freely and safely in the comfort of your homes, everyone needs to remember we have service men and women all over the world, on duty and will be on duty Christmas Eve and Christmas night and New Year's Eve and New Year's Day and we need to keep them in our thoughts as they protect our liberties and our freedoms. She asked as you gather around your table on Christmas Eve or Christmas Day to please keep them in your thoughts and prayers. Even though they caught the bad guy, the war is not over and we must continue to remember that.

Hanna said the conference was expensive, but they had a good time. He said there will be things coming in the mail to different departments he asked be sent to them from the conference. He wished everyone Happy Holidays.

Mitchell said he would like to echo what the other Council members said about the NLC Conference and he feels it is very worthwhile. He said he does have a CD ROM which will be here in about three weeks, so you can slip it into your computer and it will be like you were there. He said while they were there, they participated in a couple panel discussions on Early Childhood and the president of the National League of Cities presented the City of Lawton with a plaque for our participation in the program. He said we were there with the City of Tulsa and six or seven other cities at the presentation. Mitchell presented the plaque to Mayor Powell at this time.

Powell said this will be hung in City Hall. He said we had a State meeting here and the governor's wife came and spoke and they had an excellent panel. He said Jane Mitchell, the City Manager's wife, is working very hard with this through the United Way, so this is not an accident this happened and he happily accepted the plaque. Powell wished everyone a Merry Christmas. He asked everyone to pray for our soldiers everyday because they don't ever take a break.

MOTION by Warren, SECOND by Hanna to convene into executive session. AYE: Warren, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED

The Mayor and Council convened in executive session at approximately 9:07 p.m. and reconvened in regular, open session at approximately 9:15 p.m. with roll call reflecting all members present.

#### BUSINESS ITEMS: EXECUTIVE SESSION

30. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending lawsuit of City of Lawton vs. Atlas-Tuck Concrete, Inc. and Landmark Engineering, Case No. CJ-2002-252, District Court of Comanche County, and if necessary, take appropriate action in open session.

Vincent read the title of Item 30 as shown above. He said Council convened in executive session and after discussion staff requests authorization for the City Attorney's Office to execute the settlement agreement as proposed by the court.

MOTION by Devine, SECOND by Hanna, to authorize the City Attorney's Office to execute the settlement agreement as proposed by the court in the pending lawsuit of City of Lawton vs. Atlas-Tuck Concrete, Inc. and Landmark Engineering, Case No. CJ-2002-252, District Court of Comanche County. AYE: Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren. NAY: None. MOTION CARRIED.

31. 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.

Vincent read the title of Item 31 as shown above. He said Council convened in executive session and after discussion no action is required at this time.

Powell announced he was in a conference call with the Chamber of Commerce last Friday at 12:00 p.m. with a Doctor at Oklahoma University with a plan to have a group from that department come down to make a study, in particular, 2<sup>nd</sup> Street leading into downtown Lawton and possibly a couple more areas. He said this study would probably cost around \$10,000 and the Chamber is trying to get private money and has a great commitment from some lending institutions to come forth with the biggest part of that money to make this happen. He said there are a lot of pluses in this and is something a lot of people have wanted for a long time, but there might be a possibility where the City might have to contribute a small amount of the funding. He wished everyone a Merry Christmas and Happy and Safe New Year.

There being no further business to consider, the meeting adjourned at 9:20 p.m. upon motion, second and roll call vote.