

Meeting of 2003-12-8 Special Meeting

MINUTES

LAWTON CITY COUNCIL SPECIAL MEETING
DECEMBER 8, 2003 - 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

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

The meeting was called to order at 6:00 p.m. by Mayor Powell, with invocation by Pastor John Butler of Beal Heights Presbyterian Church and followed by Pledge of Allegiance. 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

Mayor Powell introduced special guests he invited who have represented the Lawton-Ft. Sill community and have made us proud, especially this football season; Coach Ernie Manning, Head Football Coach of MacArthur High School, his assistant, Mike Moore, Athletic Coordinator and four members of their football team. Powell asked Manning to report on what his team has accomplished this year.

Manning said they won the City Championship, the District Championship, Bi-District Regional Area and they are State Finalists. He introduced the team members present: Michael Fooshkee, a Senior Captain, linebacker and tight end; Julian Furman, a Sr. Captain, played free safety and wide receiver; Lester Witherspoon, also a Sr. Captain, played tailback and defensive end; Jeff Williams, another Sr. Captain, played center. Manning said these guys have done a great job all year long, leading our team.

Powell said they have done a magnificent job this year of not only representing MacArthur High School, but the Lawton-Ft. Sill Community and we are proud of them and appreciate them very much.

Ewing-Holmstrom thanked them for a fantastic season and told them they had done a great job.

Patton said he is a MacArthur alumni and Mr. Moore was his algebra teacher.

In the absence of the Mayor's Commission on the Status of Women presenter, Mayor Powell presented the Citizen of the Month Award to Louise J. Griswold. He read citations from the Oklahoma House of Representatives and the State Senate. Powell also read a Proclamation from the Office of the Mayor of Lawton. Powell thanked Griswold for all her hard work and dedication.

AUDIENCE PARTICIPATION: NONE

CONSENT AGENDA : Separate consideration was requested for Items #1 and #5.

MOTION by Devine, SECOND by Hanna, to approve the Consent Agenda items as recommended with the exception of Items #1 and #5. AYE: Hanna, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Bass. NAY: None
MOTION CARRIED

1. Consider the following damage claims recommended for denial: Howard L. and Vickie Patterson.

John Vincent said they had received notice that Ms. Vickie Patterson wishes to speak on this claim, which the City Attorney's Office has recommended for denial. He said there was a backup in her house on the 19th and 20th of September. A flush truck cleaned the line, there was an obstruction in the sewer main; this was the first notice received of any problems on this sewer main. Due to a new policy, we have had the main investigated one segment upstream from the property and two segments downstream with no obstructions found in those areas.

Vickie Patterson, 112 Tattershall Way, said she had a backup at her house and it messed up her floor and a vanity set. When she called, they came out, tested the floor and found water under her vanity, her vinyl and they told her the problem was the City's. They unstopped it and came back in and took pictures. She said the damage was done and it came from the City and she has had no problems with her sewer.

Powell asked Vincent to explain what his office based this denial on.

Vincent said the City is not an insurer of the sewer line and is required, by State Law, to have notice, prior to a backup, had problems with the sewer line and have failed to correct the problem. In this particular instance, one pipe segment upstream from Paterson's house, which is between manholes, the pipe segment she is hooked into and two pipe segments down from her house, their investigation revealed we have never been notified of any backups or problems on those pipe segments, therefore, pursuant to the court cases we follow, we are not suppose to pay this claim.

Ewing-Holmstrom said she knows this neighborhood quite well, she used to live around the corner from Patterson's. She asked where the Patterson house was located, in conjunction to Trenton and Wilshire.

Patterson said they are in the back of her.

Ewing-Holmstrom said she used to own a home at 4705 SE Trenton and everybody around her had sewer backups and had to come through her back yard to get to the sewer main, which was in the alley. She said they had several backups in her house. She said she would like to move they approve this claim because she has actually experienced exactly what Patterson has. She said she never did call and make a claim to the City, they were able to take care of it themselves.

Vincent said if Council does desire to allow this, the lowest amount of estimate of repairs is \$1,874.49.

MOTION by Ewing-Holmstrom, SECOND by Haywood, to approve Res. No. 03-197 approving the damage claim of \$1,874.49 to Vickie Patterson and for her to install a backwater valve.

Devine asked the motion to stipulate, if we pay this claim, Mrs. Patterson put in a back water valve, so this won't happen again. This needs to become mandatory or they sign a release relieving the City of any responsibility.

Haywood asked how much this would cost?

Devine said they cost between \$300 to \$500 to install, but we have passed an ordinance that we would pay \$200 toward that.

Haywood said so it is going to cost her \$300.

Devine said, roughly, it could be \$200, it depends on how deep her line is.

Haywood said that would be her option if she wanted to go that particular route. He said once she signs the form, she would relieve the City anyway.

Devine said no, sir, not in the future. If it backed up again tomorrow, we'd have to pay again. Is that right, Mr. Vincent?

Vincent said yes.

Bass asked if we didn't file a motion making it mandatory that you had to install them?

Vincent said it is not mandatory now, but we are looking at some revisions with Mr. Bigham, looking at a different type of valve possibly, that we have talked with Mr. Devine about. He told Patterson that if this does pass, his office has information on how to get one of those back water valves installed and then another claim form you would file to get reimbursement.

Ewing-Holmstrom said if we pay this claim for \$1,874, she pays the \$200-\$300 for the backwater valve, if she has another backup, she's automatically free of having to pay anything and it's on the City immediately, or it shouldn't have a backup ever again?

Devine said that would be up to the City Attorney to advise on that. He said he didn't know if it would relieve the City for any future claims, but it sure would cut down on claims.

VOTE ON ABOVE MOTION WAS HELD AT THIS TIME. AYE: Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Bass, Hanna. NAY: None. MOTION CARRIED.

2. Consider the following damage claims recommended for approval and consider passage of any resolutions authorizing the City Attorney to file a friendly suit for the claims which are over \$400.00: Joseph and Barbara Hayden, Jame and Carmelita Griffith, Roberto and Sherry Chavez, Robert and Alicia Newport, and Millie B. Hause. Action: Adopted Res. Nos. 03- 194, 03-195 and 03-196, approving above damage claims.

3. Consider approving an agreement with Lawton-Fort Sill Habitat for Humanity, Inc., a Community Housing Development Organization (CHDO) for the production of an affordable housing unit and authorize the Mayor and City Clerk to execute the document. Action: approved.

4. Consider accepting the completion of the Aslschlager Park Restroom Project 2002-11 as constructed by Kent Waller Construction. Action: Approved.

5. Consider authorizing the Department of the Army to award a construction contract for the Meadowbrook Creek Flood Control Project.

Bass asked Ihler who did the feasibility study on Meadowbrook for \$687,000?

Ihler said the Army Corps of Engineers.

Bass asked if we had to pay the Army Corps of Engineers.

Ihler said we had to pay 35% of the cost for the feasibility study.

Bass said we paid \$293,000 of the feasibility study. Does that include a new bridge at Meadowbrook?

Ihler said not at Meadowbrook. He said the residents living in the areas between Meadowbrook and Liberty, 51st & Liberty, does not want anything done with that section of the channel because of the trees, but it does include a new bridge at 51st and Liberty.

Bass said we have spent \$3,400,000, not us, but half of that, and still there's no bridge in Meadowbrook.

Ihler said the overall project cost is about \$3.4 million and the City's responsible for 50% of the total cost. The majority of our cost came as a result of buying the right-of-way and buying those eight homes.

Shanklin asked if the \$286,00 is out of the 95 CIP.

Ihler said in the project account, there is a balance of \$291,000, that was already established from the 95 CIP. He said there was about \$1.9 million for the Meadowbrook Project.

Shanklin asked if Ihler thought we really need to still do this?

Ihler said yes, he does; he said we have gone this far where we have already spent about \$1.3 million and we are actually only going to spend another \$280,000 for a \$1.6 million construction project.

Shanklin asked Ihler if he would agree that if Meadowbrook Bridge was done, you probably wouldn't want to do it then, because that's where we bottle water up.

Ihler said he would also like to do Meadowbrook Bridge but we just don't have enough fund to do that now.

MOTION by Bass, SECOND by Hanna, to approve authorizing the Department of the Army to award a construction contract for the Meadowbrook Creek Flood Control Project. AYE: Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Bass, Hanna, Devine. NAY: None. MOTION CARRIED.

6. Consider accepting a Permanent Utility Easement from Mr. and Mrs. Williamson, located in part of Block One (1) of Tropes Five Acre Blocks, for an existing sewer line that runs across the north part of their property, and authorize the Mayor and City Clerk to execute the Permanent Utility Easement. Action: approved.

7. Consider accepting a Warranty Deed, located in part of Block One (1) of Tropes Five Acre Blocks, from Mr. and

Mrs. Williamson. Also consider giving a Quit Claim Deed to Mr. and Mrs. Williamson, returning the parcel that was conveyed incorrectly, and authorize the Mayor and City Clerk to execute the Warranty Deed and Quit Claim Deed. Action: approved.

8. Consider approving the following contract extension: VHF Portable Radios (CL03-018), Jan Communications and Electronics Co. Inc. Action: approved.

9. Consider awarding contract for Sodium Hydroxide (CL04-024), Brenntag Southwest. Action: approved.

10. Consider awarding contract for Fluorosilic Acid (CL04-022), Lucier Chemical Industries, Ltd. dba LCI, Ltd. Action: approved.

11. Consider awarding contract for Hydrogen Peroxide (CL04-025), Brenntag Southwest. Action: approved.

12. Consider awarding contract for Pest Control Services (CL04-028), Advanced Pest and Termite Services. Action: approved.

13. Consider awarding contract for Concession Operation-Grandview Sports Complex (RFPCL04-026), Lawton Breakfast Optimist. Action: approved.

14. Consider approval of appointments to boards, commissions and trusts. Action: approved Joan Houghton and Dorothy L. Woodruff, Mayor's Commission on the Status of Women.

15. Consider approval of payroll for the period of November 24, 2003 to December 7, 2003. Action: approved.

BUSINESS ITEMS:

16. Hold a public hearing and consider an ordinance closing a portion of a 10-foot public utility easement in Block 2, Moore Addition, located at 2104 and 2106 NW Oak Avenue.

Bob Bigham spoke on this item. He said this is to consider an ordinance closing a section of a platted utility easement in Moore Addition. The location is Sheridan Road, Oak, 21st Street, and north to Ryan's Restaurant. He said the purpose is for development of this property which is zoned commercial. He said the owner in question, owns Lots 1, 2, and 4 and the proposed activity is a car wash. This has been properly noticed under the statute and City Code provision and staff recommends closure of this utility easement by the ordinance.

Ewing-Holmstrom asked if this was for another car wash.

Bigham said that is correct.

Powell opened the Public Hearing for 2104 and 2106 NW Oak Avenue at this time.

Public hearing was closed with no participants.

Vincent read the ordinance title prior to vote.

MOTION by Patton, SECOND by Hanna, to approve Ord. No. 03-53 closing a portion of a 10-foot public utility easement in Block 2, Moore Addition, located at 2104 and 2106 NW Oak Avenue. AYE: Shanklin, Patton, Haywood, Warren, Bass, Hanna, Devine, Ewing-Holmstrom. NAY: None. MOTION CARRIED.

(Title only)

Ordinance No. 03-53

An Ordinance closing a portion of a Utility Easement located on property in Block 2, Moore Addition, addressed as 2104 and 2106 NW Oak Avenue, more particularly described in Section One hereof.

17. Hold a public hearing and consider an ordinance changing the zoning from R-4 (High Density Apartment District) to C-4 (Tourist Commercial District) zoning classification located at 2013 SW A Avenue.

Bigham said this is a rezoning request from R-4 to C-4 for Lot 10, Block 4, College View Addition located at 2013 SW A Avenue. He explained the location and the surrounding businesses. The applicant is requesting rezoning for a professional real estate office in which C-1 zoning would be an inadequate zone for this. He said the Planning Commission, on November 13, 2003, held a Public Hearing and approved the request of C-4 zoning. Public Notice was mailed to 35 property owners within the 300 foot area and proper notice was in the Lawton Constitution.

Powell asked what the owner wanted.

Bigham said the owner requested C-4. He said there is C-4 zoning to the east and west sides. The property owner

on the corner was contacted to join in on this and did not want to do so at this time. Staff did recommend C-1 zoning because that is the most restrictive zoning for a professional office district. He said the C-4 zoning to the east was put in place as it related to the nursery with Ramon's, which is now being used as a parking lot.

Powell opened Public Hearing on 2013 SW A Avenue at this time.

Molly Burton, owner said she would like to have the C-4 zoning.

Public Hearing was closed at this time.

Vincent read the ordinance title prior to vote.

MOTION by Shanklin, SECOND by Haywood, to approve Ord. No. 03-54 changing the zoning from R-4 (High Density Apartment District) to C-4 (Tourist Commercial District) zoning classification located at 2013 SW A Avenue. AYE: Patton, Haywood, Warren, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin. NAY: None. MOTION CARRIED.

(Title only)

Ordinance No. 03-54

An Ordinance changing the zoning classification from the existing classification of R-4 (High Density Apartment District) to C-4 (Tourist Commercial District) zoning classification on the tract of land which is hereinafter more particularly described in Section One (1) hereof; authorizing changes to be made upon the Official Zoning Map in accordance with this ordinance.

18. Hold a public hearing and consider an ordinance changing the zoning from F (Floodplain District) and A-1 (General Agricultural District) to R-1 (Single-Family Dwelling District) zoning classification located at 618 NE Flower Mound Road.

Bigham said this is a rezoning request from Floodplain and Agricultural A-1 to R-1 Single-Family Residential, located on a 2.45 acre tract located at approximately 618 NE Flower Mound Road. Skyline Addition is located south and the quarter section north of this property is tribal land and a series of single-family homes on large acreage in the vicinity. He said the applicant plans to build a single-family home and requests the R-1 single-family zoning. He said a portion of the 2.45 acres is located in the designated floodplain area as depicted on the FEMA Flood Maps and Chapter 19A, the Flood Management Ordinance will regulate development on this tract, but it should not interfere with the proposed house to be constructed. The Planning Commission, on November 13, 2003, held a Public Hearing on this and recommended approving the R-1 zoning and proper notice has been given for the Public Hearing.

Patton asked why we have to change for that one piece, when there are other houses to the south that have been built and the zoning didn't have to be changed.

Bigham said single-family is permitted in the Agricultural District, but the applicant wanted to put the R-1 zoning on this and staff encourages to get the correct zoning on it, we just didn't do this early enough in the process.

Patton asked if this being in the floodplain creates any liability for the City by rezoning this and taking the Floodplain District out.

Bigham said he didn't believe so and referred the question to Vincent. He said it is full knowledge the FEMA Flood Maps have this in a designated flood area and the applicant has been notified that he will have to go by the Floodplain Management Regulations of the City and won't be able to build in specific areas of this tract and will have to build the house per specific standards.

Powell asked Vincent if the City was subject to any liability.

Vincent said we are ok.

Ewing-Holmstrom said in looking over the CPC Minutes, one of the things lightly touched on was the Flower Mound Reconstruction Project; how is this going to affect us when we need to get right-of-way and easement when this has just been rezoned.

Bigham said one of several things may happen; 1) if acquisition for the right-of-way occurs prior to any platting, then the City would have to acquire that through the normal process; 2) if we get into a platting process, it would be required under Chapter 21 of the City Code, that you dedicate the 50 foot, or additional right-of-way for Flower Mound.

Ewing-Holmstrom asked if it was easier to get the right-of-way as Agricultural or R-1, or does it matter?

Bigham said he didn't know that it really makes that much difference, one way or another.

Ewing-Holmstrom asked what the plans were? To build one house or several?

Bigham said one house.

Public Hearing for 618 NE Flower Mound Road was opened at this time and closed with no participants.

Vincent read the ordinance title prior to vote.

MOTION by Haywood, SECOND by Bass, to approve Ord. No. 03-55 changing the zoning from F (Floodplain District) and A-1 (General Agricultural District) to R-1 (Single-Family Dwelling District) zoning classification located at 618 NE Flower Mound Road. AYE: Haywood, Warren, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin, Patton. NAY: None. MOTION CARRIED.

(Title only)

Ordinance No. 03-55

An Ordinance changing the zoning classification from the existing classification of F (Floodplain District) and A-1 (General Agricultural District) to R-1 (Single-Family Dwelling District) zoning classification on the tract of land which is hereinafter more particularly described in Section One (1) hereof; authorizing changes to be made upon the Official Zoning Map in accordance with this ordinance.

19. Hold public hearing and adopt resolution declaring the structure at 417 NE 46th Street to be dilapidated and dangerous, thus causing a blighting influence on the community and detrimental to the public's health and safety.

Authorize the City Attorney to initiate legal action declaring a public nuisance in District Court and Neighborhood Services to solicit bids to raze and remove structure, if appropriate.

Angie Alltizer said the information she handed out to Council was a summary of what is considered a dilapidated structure within the Lawton City Code, as well as State Statute. This shows the general requirements for existing structures with the 1996 Property Maintenance Code the City of Lawton has adopted. This is a single-residential structure which suffered a fire in March 2002. The City utilities were terminated in June 2003 and she has heard there is possible litigation that might be pending in District Court between the property owner and an insurance company. Alltizer said the reason she is bringing this before Council is it has been well in excess of 90 days since the emergency event and has had no action from the property owner.

Ewing-Holmstrom asked if the fire was in March of 2002 or 2003.

Alltizer said 2002; the Fire Department's record show 2002.

Public Hearing was opened at this time.

Brad Burgess, Attorney for the home owner and said they have filed suit in this matter in July 2003; the fire happened on March 30, 2003. He said Ms. Johnson is insured by Farmer's Insurance Company and the insurance company, in their opinion, has wrongfully denied the claim. He said they filed suit and the litigation is pending in front of Judge David Lewis and are currently set for a scheduling order on December 17, 2003 and at that time the judge will schedule this for trial. Burgess said what they would like is about nine months to finish this litigation.

He said the house is far from a dilapidated structure; it is a brick structure, the utilities have been severed, but there is no danger to the community from this particular property. He said this is the first time they have been before Council and Ms. Johnson would like the opportunity to fully litigate this matter, in front of a jury and requests nine months.

Shanklin asked Vincent if we are obligated to give them this effort through the court system.

Vincent said this is totally up to the Council, the Code provides within 90 days of the emergency that they will have either corrected the problem or pulled a permit to correct. He said then there are certain aspects to the Code that will allow Council to grant continuances, for example; if the property can be successfully boarded up and secured, you can require that as part of your requirement, so this is a Council option. He said Alltizer was correct in bringing this before Council because there was no action by the homeowner within the 90 days required by Code.

Ewing-Holmstrom said she has actually been in this house, she lives down the street from it, but there are some folks who live on this street who want to speak on this issue. She asked where they were on this and when's the first court date.

Burgess said first, a petition is filed, the other side gets an opportunity to answer, then the court sets it down for a scheduling hearing and at that time, the court will actually schedule the dates for the litigation to occur. He said he suspects this will probably be on the August/September docket for Judge Lewis for trial.

Ewing-Holmstrom said she talked with Ms. Johnson who took her through the house and her issue is all the sheet

rock in the front yard and voiced her concern about this coming before City Council if the outside of the house wasn't cleaned up and secured. Ms. Johnson told said her attorney told her not to touch anything. Ewing-Holmstrom asked if everything is documented on video tape, couldn't the attorney not allow his client to clean the front of the house up and at least board up and secure it so there is safety for the neighborhood?

Burgess said absolutely, there is not problem with that. He said we have adequately documented the damages in this matter, so we can clean this up.

Ewing-Holmstrom said she has talked with citizens around there and their concern is it be secured and get the ball rolling to get it fixed up. She said Ms. Johnson has done a very good job in keeping the lawn manicured.

Shanklin said if Council was to put this on demolition, then take it to court, it will get struck down anyway. He said we need to table this indefinitely until litigation in complete.

Burgess said for the Council's benefit, we will secure the property and try to do what we can in terms of superficial problems that exist, but obviously, the internal damage is something that is going to be very expensive, we are talking in upwards of \$50,000 - \$60,000 and that's a matter of litigation, but we will be happy to keep it cleaned up and make sure there is not a problem.

Bass asked if it would be possible to go to court on December 17th and then contact Alltizer and inform her when your court date is and she can bring it back at that time and we can extend it out 9 or 10 months, whatever is needed.

Burgess said they would be happy to do that.

A citizen, who did not give his name, living at 419 NE 46th Street, said he lives next door and this fire happened in March and absolutely nothing has been done on this home and that is why he is here tonight to bring this to Council's attention. He feels something needs done about it and said he could live with what has happened tonight, and as long as that is done, he is pleased.

Public Hearing was closed at this time.

Ewing-Holmstrom said as long as the homeowner and attorney understands that the people living around this house would just like the debris cleaned up and the house secure so rodents, etc. cannot get in. She said she would like to extend this for six months and bring it back to receive an update from Alltizer after Burgess has his first hearing or any kind of legal information and try to help Ms. Johnson. She said it's a great house and neighborhood.

MOTION by Ewing-Holmstrom, SECOND by Haywood, to table this for 6 months, then bring it back with an update. AYE: Warren, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

20. Hold public hearings and adopt resolutions declaring the commercial structures at: 2532 NW Fort Sill Blvd.; 2542 NW Fort Sill Blvd.; 423-425 SW Sheridan Road; 1502 SW 17th Street; 1410 SW 11th Street; and 901 SW 11th Street to be dilapidated and dangerous, thus causing a blighting influence on the community and detrimental to the public's health and safety. Authorize the City Attorney to initiate legal action declaring a public nuisance in District Court and Neighborhood Services to solicit bids to raze and remove structure, if appropriate.

Alltizer said these are some of the commercial properties we have been dealing with since August of this year. She said Council instructed Neighborhood Services to identify commercial properties in violation of the Property Maintenance Code, needing attention to the exterior. Letters were sent out to the 30 properties owners identified; since that time, she said they have been working with almost all the property owners. She said at the last meeting, November 25th, prior to Thanksgiving, Council directed Neighborhood Services to identify commercial properties where not much progress had been done and bring those before Council for condemnation public hearings tonight.

2532 NW Fort Sill Blvd.

Alltizer said there is no record of City utility services, but there is a dumpster on site, which has been there for numerous months and she has not seen any visible progress in the last two months.

Bass asked if they were renting the building out.

Alltizer said it is unoccupied at present.

Ewing-Holmstrom asked who owned the dumpster.

Alltizer said she was not sure who it belongs to, but it is not the City's.

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

MOTION by Ewing-Holmstrom, SECOND by Bass, to adopt Res. No. 03-187 declaring structure at 2532 NW Fort Sill 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 structure, if appropriate. AYE: Bass, Hanna, Ewing-Holmstrom, Shanklin, Patton, Haywood. NAY: Devine, Warren. MOTION CARRIED.

2542 NW Fort Sill Blvd.

Alltizer said this is also a commercial structure located just north of the previous structure. City utility services were terminated in April of 1997. The property owner contacted her this afternoon.

Public Hearing was opened at this time.

Warren said he was confused as to why we are doing this. He said Alltizer was talking about appearances, what is the reasoning behind it. He said he doesn't see a problem.

Alltizer referred to the State Statute and the City Code and the definition of a dilapidated structure; it's not just based on appearance; anything vacant for over three years can be considered a dilapidated building; anything a governing body considers a public nuisance, can be considered a dilapidated building. She said if any of these structures meet the criteria of being a dilapidated building, based on State Statute and City Code, that's up to Council if they choose to condemn it or not. She said she was just asked to bring them before Council tonight.

Warren said he understood that, but what he is trying to get over is, what in this criteria, are we using on this, just because it's empty?

Alltizer said because it's empty, in a state of disrepair, or no one's caring for the property, constitutes a dilapidated building.

Warren told Council he was having a hard time; when he looks over at another property, considered in this same item # where the building is literally falling down, it's open and has been on fire and to include this building in the same item, he doesn't understand where we're at.

Hanna said he, Alltizer and Manny Cruz went down there about three years, contacted Bobby Mansell, had him clean his place up; he ripped all the ceilings up, cleaned his windows, took the raggy curtains down; we tried to get all those people down on the strip to clean their places up and for three years we've had no luck with some of these people down there and it's nothing but a nuisance.

Warren said the simple fact that you have tried to get them to clean it up doesn't mean anything to him; what he wants to know is what is wrong with it?

Hanna said it looks like a pigsty down there.

Warren said he has two pictures before him and unless it's a paint scheme problem, you're going to have to explain to him how it looks like a pigsty.

Hanna asked if he had been out behind them.

Warren said he doesn't have a picture and he needs to know what it is you are finding a problem with because he can pick out any building in this city that the City of Lawton owns, and he can find a reason to have it on this list. He said he needs to know, before he condemns somebody's commercial property. Commercial, to him, is viable as long as it has a roof because the lessee is the one generally responsible for the upkeep of the building interior. Warren said he just wants to know what it is. He said he will not vote to condemn a piece of commercial property when he doesn't know why; just because it's on a list somebody made up that fits some criteria that somebody pulled out. He said he is not blaming Neighborhood Services, what he is saying is there has been no definitive guidelines given to anybody. We need to know exactly why we are doing this and what's wrong with this building.

Bass said he was in the building at 2532 today, they have a cleaners next door and asked if they knew who owned this building and was there anything wrong and the owner said, there is no roof, it's had a fire or something and every time it rains the water comes in and it comes into our building and said she was glad we were condemning it. She said she would like to purchase it if she could.

Warren said that brings him to his second question; how are we going to condemn a partial part of a continuous building. He said we are not condemning the entire shopping center.

Bass said each individual business has their own building.

Warren asked if these were all individually owned.

Bass said yes, they are all individually owned, everyone has their own building.

Warren said his next question is; we do this on this particular building, how are we going to go in there and demolish this building without effecting the structure on each side of it?

Alltizer said she didn't think the intention is to tear the structures down, it's to prompt action from the property owners.

Warren said his point is how is the Council saying we are going to condemn your building, but we're not going to tear it down. In some way, is that suppose to spur on some activity? He said what we need to do is figure out a system that's going to accomplish what we want accomplished. If we want to accomplish just tearing down a bunch of buildings, then we're on the right track, but if we want to accomplish making this a better place to look at and have a higher quality to look at, we need to rethink this whole deal. We can't tear this building down and these people can do whatever they want. We can't tear the building down because it's structurally part of the buildings around it. He said we are going in the wrong direction to get this done.

Hanna said we can't tear it down, we can recommend; it goes to the court, the court system will tell the person either get it cleaned up or what to do with it. The Council can't do it, we can only recommend.

Warren asked how the court can tear down part of a building? He said he was voting no and everyone understands why.

Ewing-Holmstrom asked if these buildings were part of a strip mall, each one owned separately.

Alltizer said for the most part, yes.

Ewing-Holmstrom asked if they can sell the business if it's been condemned?

Vincent said there is a cloud on the title, but yes it can be sold, as long as the person purchasing it has notice.

Devine said he was glad someone finally feels like he does about these commercial structures. He said he has voiced his opinion many times before on this and what he doesn't understand is we do have an ordinance that would accomplish the same identical thing without having to put the property on a demolition list. He asked Vincent if we didn't have an ordinance that says if you maintain a nuisance, you can be cited for it.

Vincent said yes.

Devine said that is exactly what this property is, a nuisance. He asked if he was wrong.

Vincent said he can't answer that specific question on this particular property, but today we filed charges on the owners of 1502 SW 17th and 423 and 425 SW Sheridan Road, under the statute you are talking about.

Devine said, under maintaining a nuisance.

Vincent said yes sir.

Alltizer said Council had asked at the last meeting that commercial structures be brought for condemnation/public hearings, we were pursuing the other avenue, originally to work with property owners, then Council directed we write citations. So we started on a few of those and at the last meeting Council asked we bring these structures before you tonight and at our next scheduled meeting.

Public hearing was opened at this time.

Richard Kirby said he has a ten year lease with Pizza Emergency, next door and the roof at 2542 leaks and there is not a good roof on that building. These buildings were built individually, so there is two cinder block walls between these buildings, so when you ask how you can tear down one building down; they can all be torn down individually. He said when they originally built them, he believes they built them one at a time. He said he was interested in purchasing this property.

Bass said he thinks people are interested in purchasing this property, they are just having trouble figuring out how to do it.

Kirby said he was worried if Council condemned it, could he get a permit to bring it up to code.

Powell said there is a process that can be had on that.

Patton said the frustrating part is getting to the point of trying to get somebody to actually do something. He said he understands where Devine is coming from and agrees, there has got to be a way. He said the question is how do you prompt these owners to actually do something with it. He said the heart of the matter is how to get these owners to actually do something. These structures have been abandoned for 15-20 years probably.

Warren asked Vincent if we have the ability to cite the owner, over a period of time, a week, 6 months, or however we decide to cite them, to a certain point where we have determined, at that point, we will take them to court, is there anyway for us to gain title to that building because of the amounts owed for fines?

Vincent said, no sir, not for fines, but, under the statutes, if we have to board it ourselves, the boarding cost constitutes a lien.

Warren said we are able to file a lien against the property and could physically take possession of that, through the courts, because of the lien.

Vincent said the lien takes the same effect as an ad valorem tax and if the owner doesn't pay those taxes/liens, the Sheriff would have a tax sale.

Warren said the building could be sold to someone interested?

Vincent said yes.

Devine said back to maintaining a nuisance, a charge can be filed today without taking it before the Council etc. He said Altizer could file maintaining a nuisance today, right?

Vincent said yes sir.

Devine said then they have so many days and could turn around and file on them again.

Vincent said the way the Code is written, it could be filed everyday. Each day constitutes a separate violation.

Devine said under these Codes, if we go through the process, we are talking about months in getting it to the court where they would have to pay, to get their attention, right?

Vincent said it would be about 45 days before we could take it to District Court.

Devine said everybody wants to go this way, to tear their buildings down, threatening to tear them down, when you could do the same identical thing everyday.

Public hearing was closed at this time.

Hanna asked Devine if this is the case, why are we even bringing them here in the first place, any of them?

Devine said he doesn't know, he doesn't understand it, that's why he is asking.

Warren said that's what we don't understand, why we don't go the other direction.

Hanna said the Branch Chief and Division Chief is here and can answer it.

Warren said because we told them to.

Hanna said then we have to undo our decision and do something; give them direction on which way to go. He said if we can't agree on something, we have to find another way.

Powell said we are on 2542 NW Ft. Sill Blvd. and have had a ton of discussion.

Shanklin said we have said in the past, nobody is going to do anything and we know that. He said is that how you want to do it, just let them deteriorate and fall down? He said until we get them over to District Court, let the judge tell them, we are wasting our time.

Warren asked what if we get them over there and the judge doesn't say that? Wouldn't we be better to just fine them as we go along and get it done, rather than going through the process of going to court and have the judge say he doesn't understand why it's before him.

Shanklin said if you get 90 days of tickets, the judge will throw out 85 of them, we know that, it's happened in the past. He said until the courts make them do it, nothing's going to be done.

MOTION by Hanna, SECOND by Bass, to approve Res. No. 03-188 declaring structure at 2542 NW Fort Sill 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 structure, if appropriate. AYE: Hanna, Ewing-Holmstrom, Shanklin, Patton, Haywood, Bass. NAY: Devine, Warren. MOTION CARRIED.

423-425 SW Sheridan Road

Alltizer said this is actually two street addresses, one physical location, a commercial structure once used as a night club on the 425 side and a transmission repair shop on the 423 side of south Sheridan. The City utility services were terminated in March 1998. She said the 425 Club has previously been to Council and condemned in February 2002. She said the property owner has made some repairs to the exterior of the property but technically, it remains in violation of our property maintenance code and, as directed, she is bringing them before Council tonight.

Ewing-Holmstrom said the last time this was brought up and we condemned it, Alltizer was not able to go inside 425, and asked if she has been able to go in since.

Alltizer said the City Inspectors have.

Ewing-Holmstrom asked what was found.

Alltizer said they found significant work needed and she believes the owner has a potential occupant or lessee for that side that would like to rehabilitate that side of the structure. She said the inspectors from Building Development would be better able to answer that, but they were able to go inside about three weeks ago.

Warren said to save time, he will just say ditto to what he has already stated.

Public Hearing was opened at this time.

Steve Mansell said he is an attorney from Oklahoma City and here on behalf of his Dad. He said seeing Council's actions tonight, he believes them to be a fair Council that wants these things fixed. He said they are not unwilling to fix what needs fixing in order to get this off the agenda as a problem, as well as off their agenda as a problem.

He said looking at the structure you can tell it's a sound physical structure, it is secured, it has been cleaned up and his client has spent approximately \$10,000 on repairing the roof, has spent several thousand dollars on new garage doors, which were blown in by a storm, and has spent \$3,000 on the upper level roof. Mansell said they have a tenant and a verbal agreement to lease the property and he is going to do the repairs on the inside and outside of the building and we are to maintain the roof. As far as repairs to 423, it was a transmission shop anyway, so it has a cement floor and concrete brick walls and right now it's just storage. He said he's not sure what is needed done on this building. He said they have no intention of battling with Council or dragging their feet. He said his dad is not lazy, dishonest and not unwilling to work, in whatever direction he is given. Mansell said following the most recent round of letters they received, on these properties and some others, his Dad has made 30-40 phone calls to various members, not only Council, but Neighborhood Services to find out exactly what they want him to do to fix these properties. Mansell said he is not here to threaten litigation, all they want to do is to work with Council anyway they can. He said he believes, looking at these pieces of property and with what Mr. Warren was saying earlier, you can go and find things wrong with every building in town. He said he has seen the definition of dilapidation and he doesn't see how you can say these are dilapidated. They have some technical things wrong with them, but, they are not a danger to the public.

Ewing-Holmstrom asked if he has had a contractor go in and look to see what kind of monies it would be to rehab this building? She also asked about the person wanting to lease the building. This came up a year and a half ago and the big issue was, you had somebody wanting to lease the building but they don't know what they are going to do in that building, so you don't know what you want to do in this building because it may conflict with what the renter wants. She asked if she was right.

Powell said that was said on the floor, yes.

Ewing-Holmstrom said here we are a year and a half later, the exact same position, looking at your property, still don't have a leaser. She asked how much money are they talking about. She asked when was the last time someone was in this building?

Mansell said renting it?

Ewing-Holmstrom said yes, as an active business at 425.

Mansell said approximately three years ago.

Ewing-Holmstrom asked how much money? She said there were some electrical concerns and how those were going to pass inspection. She asked if they had any idea on how much it would cost to rehab this building.

Mansell said no, not at this point. He said when the building was transformed from a furniture store to a night club, about 10-15 years ago, by Mr. Jimmy Roach, he spent over \$180,000 on the inside of that building fixing it up. There has been some damage since then, there was a fire that caused limited damage, but it is not gutted. He said to answer the question on how much money it would take to fix it, it would depend on what the tenant wants to do and what he has to do as dictated by whoever he needs to get a permit from in order to get the remodeling started. He said the intended business is a night club, so they're going to have to install sprinkler systems, safe wiring, and all needed repairs.

Patton said the intent is to get people who own commercial properties to step out there and really actively attempt to get these in a state of being able to be leased. He said on this property, he realizes Mr. Mansell has spent a lot of money fixing it up, but there just doesn't seem to be any real intent of trying to fix this up and lease it. He said we just don't want to see pieces of property just abandoned and no attempt being made to utilize it as it was intended to be, commercial rented property.

Mansell said if the individual his Dad has an agreement with could get a permit to get the inside to renovate, he could get the business going.

Bass said he spoke with Bobby Mansell about this and told him the roof needs fixed and Mansell agreed with him. Bass asked Mansell if the roof was fixed on both buildings?

Mansell said his Dad does the work himself and he does a good job.

Bobby Mansell said the AMCO building is solid from wall to wall.

Steve Mansell asked Council not to put it on the D & D List; for example, you had a commercial building on there where the owner doesn't even show up, it's in bad shape and you don't know what the guy's going to do; he can see that going on the list, but there should be a difference in Council's consideration for someone like Mr. Mansell, who's trying, working hard and has a valid commercial deal going, there should be a difference between someone who doesn't show up and his Dad. He asked not to put it on the D & D list, they're going to get that rented and it's not a dilapidated structure.

Richard Vickry, from Faxon, said he's the one who's trying to renovate this club. He got in touch with Bob Bigham, who had the inspectors out and gave him a list and told him once these things were repaired, he could open the club. This list is very minute things and asked why did this building go into a demolition mode all of a sudden, when he has less than 15 items on the list to repair.

Bass said the reason is because this is the second time this has come up. He said we are on the same building again and we are just trying to get progress; it doesn't mean it's going to be torn down, it means you have 15 days to get your permit, you get to work, get it finished and it comes off the demolition list, it's just a simple deal.

Ewing-Holmstrom asked Vickry about his list. She asked if he could give an approximate amount of the cost to do all those repairs and how long will it take him to do the repairs, in order to open this, as a viable business that passes all the City Codes.

Vickry said 90 days.

Ewing-Holmstrom asked him if he was the same person interested in leasing this over a year and a half ago when Mr. Mansell said he was working with somebody to lease this property.

Vickry said no.

Ewing-Holmstrom asked him how long he had been working with Mansell on leasing this property.

Vickry said about three weeks.

Bass said if he can get that done in 90 days, it will never be declared dilapidated, the inspectors will come out there, tell you everything's fine and it will come right off the list.

Powell said it will be removed from this list.

Public Hearing was closed at this time.

MOTION by Shanklin, SECOND by Ewing-Holmstrom, to approve Res. No. 03-189 declaring structure at 423-425 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 structure, if appropriate. AYE: Ewing-Holmstrom, Shanklin, Patton, Haywood, Bass, Hanna. NAY: Devine, Warren. MOTION CARRIED.

1502 SW 17th Street

Alltizer said this is a single commercial structure; City utility services were terminated in December 2002. The structure is in a general state of disrepair, in violation of the property maintenance code on numerous violations and is also a zoning code violation. This is situated in an R-1 zoning district; there is another single-family residence on this property, so because it is a non-conforming use, it was discontinued. She said she doesn't believe the Code allows for this structure to be rehabilitated, specifically as a commercial structure. She said she has been in contact with the property owner, who resides in Tempe and unable to drive at night. Alltizer asked her to call Councilman Haywood and confer with him about the property. She has applied for a remodel permit on this structure, but unable to issue it, pending Council action tonight.

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

Haywood said he talked with Mrs. Owens; she does live in Tempe, Oklahoma and says she wants to change this into apartments. He told her this would be condemned tonight and she could apply for a permit. Haywood said she can't drive, she is 77 years old, but believes she has plenty money, so she can fix this up.

MOTION by Haywood, SECOND by Bass, to approve Res. No. 03-190 declaring structure at 1502 SW 17th Street to be dilapidated and dangerous, thus causing a blighting influence on the community and detrimental to the public's health and safety. Authorize the City Attorney to initiate legal action declaring a public nuisance in District Court and Neighborhood Services to solicit bids to raze and remove structure, if appropriate. AYE: Ewing-Holmstrom, Shanklin, Patton, Haywood, Bass, Hanna. NAY: Warren. MOTION CARRIED.

*Devine was out of the room during the vote.

1410 SW 11th Street

Alltizer said this commercial structure was on the original list of 30 commercial structures discussed back in August. This is a single commercial structure, City utilities were terminated in October 1987, the structure is in a general state of disrepair, and is in violation of the Property Maintenance Code.

Public Hearing was opened at this time.

Steve Mansell spoke on behalf of Bob Mansell. He said this was purchased at a Sheriff's Sale and they have no intention of leaving this property up, it is their intention to tear it down. He asked if they could have a reasonable amount of time to get that done.

Vincent asked Mansell if he was aware that if Council declares this dilapidated the tipping fees at the landfill are cut in half?

Mansell said he guesses we are in agreement on this one.

Ewing-Holmstrom asked when this property was bought.

Mansell said he wasn't sure, it's been several months.

Public Hearing was closed at this time.

MOTION by Haywood, SECOND by Shanklin, to approve Res. No. 03-191 declaring structure at 1410 SW 11th Street to be dilapidated and dangerous, thus causing a blighting influence on the community and detrimental to the public's health and safety. Authorize the City Attorney to initiate legal action declaring a public nuisance in District Court and Neighborhood Services to solicit bids to raze and remove structure, if appropriate. AYE: Shanklin, Patton, Haywood, Bass, Ewing-Holmstrom. NAY: Warren, Devine. MOTION CARRIED

*Hanna was out of the room during the vote.

901 SW 11th Street

Alltizer said this is a commercial structure and is one of the only ones that is an actual operating business. It's currently an auto paint and body shop, it does have current utility services, and has some junk vehicles on the north side of the building that have been there for quite some time. She said it has some general exterior problems, and it appears the roof is sagging in a few places. She said the Fire Marshal did receive a complaint about an open wood burning stove in a flammable vapor environment, so the Fire Marshal went out about a week ago and visited with the property owner, pointing out other fire and safety hazard violations at that property. Alltizer said she believes the property owner is planning on working with us on correcting things.

Patton asked if the property owner has made any attempts to contact Alltizer.

Alltizer said yes he did and they discussed a few things. She said this was one that a whole lot of progress was not being made.

Public Hearing opened at this time.

Raymond Sproat said he owns this property. He said this building was built in 1941-1942, with green lumber, he bought this from Alfred Hennessey. He said they built the roof with green lumber and it curves, but it is solid and it's a solid building. He said the walls are 8-10 inches thick of solid cement, not cement block. He said he had a 300 lb. guy up on the roof working and never had any problems with it. He said the piece where it's waving, there is a steel beam put up there and the reason the wave is in there is because of the green lumber they used. He said when he moved into the building he put six 2 x 6s across from the steel beam to the other section so there wouldn't be any problems. He said the Fire Marshal said he would have to get rid of the wood stove, which in 1982, when he moved over there, under Urban Renewal, they said the wood stove would be ok and it's been in there since 1982. Sproat said his notice says he cannot have a fence between my property and the property behind mine. He said the man put a fence up there so he cannot maintain the backside of his property; there is seven inches from his building to that man's fence. He said he worked for that building with his own hands and he is proud of it.

Public Hearing was closed at this time.

Shanklin asked Sproat if he understood about what part of his building was dilapidated; the framework gone, and doors gone.

Sproat said he can replace the door.

Shanklin asked if he was told what he needed to do. Shanklin explained some of the violations to Sproat.

Sproat said he can do as much as he can; he is crippled.

Shanklin asked him if he couldn't hire it done.

MOTION by Shanklin, SECOND by Patton, to approve Res. No. 03-102 declaring structure at 901 SW 11th Street to be dilapidated and dangerous, thus causing a blighting influence on the community and detrimental to the public's health and safety. Authorize the City Attorney to initiate legal action declaring a public nuisance in District Court and Neighborhood Services to solicit bids to raze and remove structure, if appropriate. AYE: Patton, Haywood, Warren, Bass, Hanna, Ewing-Holmstrom, Shanklin. NAY: Devine. MOTION CARRIED.

Haywood asked if Sproat knew he has 15 days to go down and get a permit?

Alltizer said she could meet with him and make sure.

21. Consider the Standard Meal Allowances within Council Policy 1-1 for Employees, Mayor and Council and take appropriate action.

Hanna said when we go out of state the funds we are getting are not enough. In the state of Oklahoma this is enough, but the Western states are pretty expensive.

Ewing-Holmstrom said her phone starting ringing off the hook after the Sunday paper was delivered and there are an awful lot of angry people out there. First, a lot of people were not aware the Council were given these kinds of allocations when they are sent on these trips. She said there is a large contention in the City to think if you should be able to eat on \$6 for breakfast, \$7 for lunch and \$14 for dinner, that's a whole lot of money for food and \$50 for out of state is not a good idea.

Warren said it has been awhile since he's traveled to the bigger cities, but he is pretty sure, they have fast food

restaurants and he can guarantee you can eat for \$5 every meal. He said he didn't really have a problem with this but....

Hanna said he agrees with what they are saying, if the person going out of town has a POV or allocated a POV so they can drive to these places, but sometimes people do not have this transportation available to them, so where would they go, the hotel, motel, wherever they are staying at and sometimes you are stuck eating there and the prices get pretty stiff.

Powell told Hanna he doesn't have any support there.

22. Consider removing the duplex at 1123 and 1125 NW Ozmun from the D & D List and take appropriate action which will allow for the sale of the property.

Patton said he initiated this and apologized to Hanna, since this was in his ward and should have contacted him. He said he has a constituent who is attempting to purchase this property. He owns two other properties adjacent to this one and has done an excellent job of fixing them up. Basically, he is attempting to get a building permit so he can start remodeling but has been unable to get a key from the owner to get an inside inspection, so he cannot get a building permit, therefore, Patton said he is attempting to get this removed from the list and doesn't have a problem with putting a time limit on it. That would enable him to get the permit and start work on it.

Hanna said Patton and he had talked about this and has also seen the man's property, which is in a real good state and has no problem with taking this off the D & D but would like to put a stipulation on it that this man not buy until the man he wants to buy it from agrees to sell it to him. Hanna said he can't see him spending money on property he might not end up owning and waste his time. If he does get the property, he's willing to take it off the D & D if he can get the permit and bring it up to code in the allotted time Council gives him.

Richard Menden said he talked with Patton and with almost every Council member, except Devine, about this property. He said he has already signed the deal on it and was trying to get a permit and was unable to and his stipulation on purchasing the property was to get a permit. He has talked with the owner and told him just as soon as Council does it, he will go down to Southwest Abstract in the morning and close on the deal and come down here and get the permit.

Bass asked Alltizer if you had to be the owner to buy the permit.

Alltizer said this property has been to Council twice, it's been condemned twice and this will be the second time it's up to have the resolution rescinded. She said anytime we have a property that has gone before Council for condemnation, we ask to inspect the inside because according to the code, we have to issue a certificate of occupancy saying all requirements have been met and all violations have been corrected. She said because he does not have possession of the property, does not have access to the property, we have not issued a building permit. The owner says he does not have a key to the property and there has been some misunderstandings between the current property owner and Mr. Menden, but we will be happy to issue a building permit if we can get access to it to do an inspection or if Council rescinds the resolution, would issue it like any other building permit, which would be good for six months and inspections would only be required when called in by a contractor. She said they would be happy to issue the building permit if Council rescinds the resolution tonight and he takes ownership of the property.

MOTION by Hanna, SECOND by Devine, to remove the duplex at 1123 and 1125 NW Ozmun from the D & D List and approve Res. No. 03-193. AYE: Warren, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

Ewing-Holmstrom told Menden she applauds the work he's done in that neighborhood and maybe he could join with some of the other property owners and show his photos around and encourage them.

23. Consider a supplemental budget appropriation to the Legal Services Department and take appropriate action.

Shanklin said we are trying to come up with enough funds to continue the job at hand for the remaining of 2003 year and it will take \$115,000 more. He said the people in Neighborhood Services have worked on this, the City Attorney's staff has gone as far as they can and you can see what's out there as far as waiting for funding and he asks Council to direct the City Manager to find the \$115,000.

MOTION by Shanklin, to approve a supplemental budget appropriation of \$115,000 to the Legal Services Department.

Powell stated his concern, not about what we're trying to do, but where the money is coming from. He said we have a big concern out there; we have done something for fire and police and we have the general employees we are going to have to do something for, in his opinion, and this is another issue we have to address.

Shanklin said we need to cut back on staff then, we don't need all this staff working if we are not going to give them the tools to do the job.

Bass asked if we receive the money back from the court system on the ones we file on? Once we spend our \$2000-\$2500, is it gone?

Vincent said on the dilapidated building portion, the \$60,137.50, eventually, possibly, you may get a portion of that back and that would take approximately 2 years. That goes into the general operating fund, we never see that.

Powell asked why it doesn't come back to the Legal Department's fund if it comes out of there?

Vincent said as it's received, it's other income as received by the City and becomes part of the budgeting process and it's two years down the road and you may or may not see that. He said the \$55,564 for legal operating expenses is primarily because of the union and the six lawsuits.

Warren referred back to the citation aspect of the D & D and things of that nature. He asked if this money is District Court we're spending on D & Ds.

Vincent said the \$60,137.50; the breakdown, in a memo he had sent Council, is about \$44,387 just in court costs and have approximately \$15,750 in publication/notification costs.

Warren said what he was getting at earlier was trying to shift the focus away from the D & D, the threat of that, to actually, instantly, hit someone in the pocket, where we are at least getting some funding for that nuisance. He said we are going to help pay for what we do in the future with those fines.

Vincent said that's a possibility.

Warren said that was the reason he was wanting to shift the focus. He said he believes something needs to be done with these properties, but if we focus more on the citation aspect, we can help pay these bills.

Devine asked Mitchell when we were going to operate on the rule that each department should be able to live under it's own source. He said he believes our City government is supposed to operate that way. Instead of all the monies brought into the City goes into a general fund; are we doing that right? He said it seems this comes up constantly because he thought the water department was supposed to take care of itself, the sewer department, from the income from what we charge for that and right on down the line. He said you're supposed to use those monies for those departments. Isn't our City Charter set up that way?

Mitchell said some departments can operate by collecting revenues, but you have other departments that could not. The Parks and Recreation Department, for example; you couldn't set the fees high enough to pay for all the services that department gives.

Devine said he understands that and that would come back under legal services for their fines and things like that, which should go into their department, right?

Vincent said under State Law, for example, the money that's received by the Court Clerk's fines, is required to be put into the general funds.

Mitchell said you could reallocate that money you collect one year, that unexpected revenue can be allocated or appropriated in the following year to do what you want to do. He said we had this discussion during the budget process and Council decided to defer that decision because we weren't sure at that point how much money we were going to expend. Mitchell said to answer your question, he thinks he can find about half the money; your Council Contingency has about a \$40,000 balance, so you have about that much to cover the estimated \$55,000 in your first half of the expenses; it's the second half, the other \$44,000-\$45,000 that he'd have to look for.

Powell said that would deplete all the Council Contingency Fund and we are almost halfway through the fiscal year.

Mitchell said yes.

Shanklin said we voted to give those funds collected at the courthouse, back to Alltizer's budget.

Mitchell said we did that, we increased the amount of money put into demolitions this year, but we've been much more active than we used to be too.

Vincent said one of the big problems he pointed out in his memo is the State Legislature this year, doubled the filing fees. He said, for example, on a lawsuit issue file a motion for Summary Judgment, used to be part of the cost

already paid, now there's a separate \$50 fee every time you file one of those motions.

Bass said when this first started, we talked about giving tickets and said he believed him and Warren agreed and most everyone on the Council agreed that was the way to do it; if people didn't reply or don't come back, you write them a ticket. He said half the people tried to fix their buildings up and half didn't. They were so pleased with the ones who did, they didn't think tickets should be given to the ones who didn't, so the only way we figured to get their attention was to bring it back to Council again and put it on D & D. He said for some reason, Bigham didn't want to give tickets.

Warren said his point is, we should have held tough and said this is what we want done; we did that in the D & D aspect, we basically told them, forget what we told you before, we want you to bring them back. He said he thinks we need to lean more toward those fines. At least that gives us a revenue source coming in.

Bass said we gave them instructions to give them tickets. We didn't say let them slide or let them do this; we gave them instructions and it didn't happen. It's not our fault, it's their fault.

Devine said the City Manager needs to step up to the plate and do what's suppose to be done. He said when this Council gives him a directive to do something, then if they don't fulfill that, it's his responsibility to answer to us for not making sure those requests are done.

Mitchell said he thinks we have filed a couple today.

Vincent said we filed two charges today.

Mitchell asked how much Vincent thought that would generate if those go to court.

Vincent said if those go to court and the judge issues the maximum fine, it will be \$1,000, but if there is no delays and everything goes according to schedule, it would be about 90-120 days from now before you would even see the money.

Bass said before that happened, Shanklin had to bring it back out on the floor and asked why we haven't been giving tickets. He said it had to be brought up again to remind them. Now, finally, today, we wrote two tickets.

Warren said during his last Council tenure, they went through this. They went through six months saying write tickets and finally someone said we don't know how to do that. He said after six months of promising to write tickets, they hear we don't really have a way to do that. He said this has been an on-going deal for a long time.

Powell said there is a motion on the floor to support what the City Attorney has asked for and he (Powell) has expressed his concerns. He asked for a second to the motion, if there is one.

SECOND by Devine.

Ewing-Holmstrom asked where the money was going to come from.

Shanklin said we are up on sales tax and water collection, how much do you want to be up? He said they're not able to do their job, so let's not do anymore demolitions or tickets. If you don't follow up on what we've already done, it's just that simple. The staff has done it this far and we can't complete the projects until we have more funding.

Mitchell said he would bring back a recommendation.

Shanklin said if the City Manager can find us some money, we don't need to vote on it.

Warren said to give direction; to vote on giving direction, that way we are clear.

Vote on the motion was held at this time.

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

*Haywood was out of the room during the vote.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Col. Herring reminded everyone of the Change of Command Ceremony tomorrow at 2:00 p.m. when Gen. Maples will pass command over to Gen. David Valcourt.

Shanklin thanked staff on the work done on 11th and F Avenue and traffic is moving real well.

Devine thanked Chief Thorne for getting officers out on Meadowbrook, they have been out there regularly and the traffic is slowing down.

Patton said tonight is his daughter, Ashton Patton's birthday, and wished her a very Happy Birthday.

Ewing-Holmstrom asked who on the Council was going to the National League of Cities Conference this week?

Haywood, Shanklin and Hanna said they were.

Ewing-Holmstrom asked how much this was costing?

Devine said the City Manager is going too.

Mitchell said he could get her a total.

Ewing-Holmstrom said she was asking because we have been talking about funding and money. She said we get this purchase order with four purchase orders for close to \$2,000, almost \$2,500.

Mitchell said that is about right.

Ewing-Holmstrom said this is the citizen's money and we are sending four people from City Hall; three Council Members and the City Manager to NLC and she would like to see some results. She said, going, spending citizen's money, this should be an educational trip and you should be able to bring some knowledge back, some information for us to further the city. She challenged each one going because this is a lot of money and it is the citizen's money.

Warren said he received an email but didn't respond to it because he wasn't going to this conference. He said there was a blurb in the email about a company that would be there having something to do with stop signs; a program to help speed up the public's attention to stop signs. He asked if they would try to get some information on that.

Shanklin said he is going to look for another way to treat water, other than the ozone. It has cost us \$500,000 this year to buy ozone, above and beyond what we have budgeted. There has got to be other ways for that.

Devine said he had planned on going to the NLC Conference this year and decided not to go because Ewing-Holmstrom wanted us to come back and report on it. He said twice he has gone; once to California and brought back a suggestion and brought back the people, at their own expense, and presented a money making proposition that would have cost the City of Lawton zero dollars and would have made millions of dollars, and it was voted down. He said the second time he went to Atlanta and came back with another project that would have saved hundreds of thousands of dollars and would have cut down on some employees, we wouldn't have laid any off, but, we would have eventually cut them out as they quit, in our trash system, and that was voted down. Devine said he feels a waste of his time to go and do the things the people are paying me to do and bring it back to this city and present it to our City staff and then have it voted down. That is the reason he is not going.

Powell announced Fort Sill's 77th Army Band Christmas concert will be Tuesday, December 9, 2003 at 7:00 p.m. at McMahan Auditorium. He also announced First Baptist Church is having their Living Christmas Tree on Friday night at 8:00 p.m., Saturday and Sunday night at 6:00 p.m.

MOTION by Patton, SECOND by Warren, to convene in executive session to consider the item so listed on the agenda and as recommended by the legal staff. AYE: Hanna, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Bass. NAY: None. MOTION CARRIED.

The Mayor and Council convened in executive session at approximately 8:15 p.m. and reconvened in regular, open session at approximately 9:00 p.m. with roll call reflecting all members present.

EXECUTIVE SESSION BUSINESS ITEMS

24. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending law suit, in the District Court of Comanche County, Case Number CJ2003-1036 of Roy Joseph and Patricia Joseph vs. City of Lawton, and if necessary, take appropriate action in open session.

Vincent read the title of Item 1 as shown above. He said Council convened in executive session and after discussion, no action is required at this time.

25. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the companion law suits, in the Comanche County District Court, Comanche County Rural Water District No. 1 vs. City of Lawton and Lawton Water Authority, Case No. CJ-2003-928; Comanche County Rural Water District No. 2 vs. City of Lawton and Lawton Water Authority, Case No. CJ2003-929; Comanche County Rural Water District No. 3 vs. City of Lawton and Lawton Water Authority, Case No. CJ-2003-930; City of Geronimo and Geronimo Public Works Authority vs. City of Lawton and Lawton Water Authority, Case No. CJ2003-931; Harold and Dorothy Wilson d/b/a/ Pecan Valley Waterworks Association, LLC vs. City of Lawton and Lawton Water Authority, Case No. CJ2003-932; and Town of Medicine Park and Medicine Park Public Works Authority vs. City of Lawton and Lawton Water Authority, Case No. CJ2003-1008; and if necessary, take appropriate action in open session.

Vincent read the title of Item 1 as shown above. He said Council convened in executive session and after discussion, staff recommends authorizing the City Attorney to reply to plaintiff's council's letter of November 25, 2003.

MOTION by Hanna, SECOND by Warren, to authorize the City Attorney to reply to plaintiff's council's letter of November 25, 2003. AYE: Shanklin, Patton, Haywood, Warren, Bass, Hanna, Devine, Ewing-Holmstrom. NAY: None. MOTION CARRIED.

26. 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 1 as shown above. He said Council convened in executive session and after discussion, no action required at this time.

27. Pursuant to Section 307B.1, title 25, Oklahoma Statutes, consider convening in executive session to discuss the employment of Kathy Fanning as City Clerk, and in open session, consider approving an employment agreement with Kathy Fanning as City Clerk and authorize the Mayor and Deputy City Clerk to execute the Agreement or take action as necessary.

Vincent read the title of Item 1 as shown above. He said Council convened in executive session and after discussion, there is three recommended changes; 1) the salary for the term of the agreement would be \$38,000; 2) under Section 4.03, Schools and Conferences, add the school for the IIMC and allow Ms. Fanning to go to either the OML school or the IIMC school, but only one per year; and 3) add a severance package of three months.

MOTION by Shanklin, SECOND by Haywood, to hire Kathy Fanning, with a salary of \$40,000, with the other changes. AYE: Haywood, Hanna, Devine, Shanklin, Patton. NAY: Warren, Ewing-Holmstrom. ABSTAIN: Bass. MOTION CARRIED.

Powell reminded everyone of the next Council meeting on December 16, 2003.

ADJOURNMENT: There being no further business to consider, the meeting adjourned at 9:10 p.m. upon motion, second and roll call vote.