

Meeting of 2003-8-26 Regular Meeting

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
AUGUST 26, 2003 - 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

MEETING CALLED TO ORDER WITH INVOCATION BY FATHER JAMES STAFFORD OF BLESSED SACRAMENT AND PLEDGE OF ALLEGIANCE.

Mayor Cecil E. Powell, Also Present:
Presiding Rick Endicott, Acting 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 6:00 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

PRESENTATION OF THE NEIGHBORHOOD IMPROVEMENT AWARD TO LAWTON HEIGHTS, ZONE ONE NEIGHBORHOOD.

Suzie Glover said they were nominated by Chief Thorne and a couple other people for the Neighborhood Improvement Award, received at the Oklahoma Neighborhood Conference in Oklahoma City. She said through hard work they received this award. She said they are very proud of this award but still have a long ways to go and with the City's backing and the Police Department still being our partners in fighting crime, we are going to get there.

Powell said he would like to present the award to Councilman Hanna, since this is his Ward and asked Chief Thorne to join them.

Thorne said this was a conference sponsored by the Oklahoma Council of Neighborhood Watches, which is an association that involves all Neighborhood Watches in the state of Oklahoma. Lawton Heights Zone One was the recipient of this state award. He said this particular Neighborhood Watch has been a very hard working group and the City, the Police Department, Neighborhood Services and other entities of the City and agencies formed a partnership to retake that neighborhood. He said to this point, we have had successes but there's still work to be done in the area and we will continue to work there. He said this particular neighborhood was a strategy developing grounds for new strategies by our department to address the problems in the area. The recognition by the state is a very prestigious award. Thorne said he also received the Community Services Award which is one of only two awards given in the state. He said he credits the Police Department and the Neighborhood Watches in Lawton for that honor.

Powell presented Councilman Hanna, on behalf of the City Council, the staff and the Police Department, with the award.

Hanna said this award really belongs to Zone One and it's because of Suzie Glover, Chief Thorne, the other Neighborhood Watch Programs, and all the people in Zone One, he was there to try to assist, but they did all the work. He said he also has another Neighborhood Watch going on in Mission Village he wanted to recognize and they are coming along as well. He said at the conference held in Zone One about three weeks ago, they had

participants from all seven wards within the City. He said the Neighborhood Watch Program in Lawton is working, but it takes everybody out there: neighbors, friends, and relatives. Hanna said his hat s off to Glover, she s the one who s taken all the flak, along with her people out there patrolling. He thanked Glover, all of Zone One, and Mission Village, because he knows they will do a good job as well and also to the Lawton Police Department for all their hard work.

AUDIENCE PARTICIPATION OPENED AND CLOSED WITH NO PARTICIPANTS

CONSENT AGENDA : Separate consideration was requested for Items #1, #11 and #3 was pulled.

MOTION by Bass, SECOND by Hanna, to approve the Consent Agenda items as recommended with the exception of Items 1, 3 and 11. AYE: Hanna, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren Bass. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for denial: Brox Industries, Inc. and Crisantos Nazario.

Devine asked why we would not pay the claim from Box Industries, Inc.

Vincent said according to the investigation, we did have a full tarp over the load, the vehicle was inspected prior to traversing on City streets and no loose debris was found; in light of that, it is considered a normal road hazard and the City is not responsible. He said had we not tarped the load and had not checked the vehicle, we would have been responsible.

Devine said under State Law, doesn t it require any vehicle to secure the load to make sure nothing is loose, even though they put a tarp on it, they are responsible?

Vincent said once the tarp is up there and the load is secure; that s what the purpose of the tarp is.

MOTION by Devine, SECOND by Hanna, to deny the following damage claims recommended for denial: Brox Industries, Inc. and Crisantos Nazario. 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: Comanche County Memorial Hospital, Ramiro Garza and Yobina Chapa. Action: approved.

3. **This item was pulled.** Consider ratifying the action of the City Attorney in accepting an agreement that authorizes Oklahoma Design Technologies, LLC to enter upon real property owned by the City of Lawton in order to film a commercial, and authorize the Mayor and City Clerk to execute the agreement.

4. Consider adopting a resolution ratifying the action of the City Attorney, and the City Manager in filing and making payment of the judgment in the Workers' Compensation case of William A. Looney in the Workers' Compensation Court, Case No. 2002-17673H. Action: approved.

5. Consider approving a contract with Robert B. Hendrick & Sons Co., Inc. for professional design services for the NW 67th Street (Cache Road to Rogers Lane) Reconstruction Project # 2003-7. Action: approved.

6. Consider awarding a construction contract to Bruton Construction Inc. and approving Change Order No. 1 for the Lake Helen Fish Habitat and Access Improvement Project #02-10. Action: approved.

7. Consider approving plans and specifications for the McMahon Park In-Line Hockey Rink Project # 2002-7 and authorizing staff to advertise for bids. Action: approved.

8. Consider accepting the Fire Training Center Re-roofing Project #2003-8 as constructed by Marlow Roofing Co. and placing the Maintenance Bond into effect. Action: approved.

9. Consider acknowledging receipt of a permit from the Oklahoma State Department of Environmental Quality for the construction of 697 linear feet of eight (8) inch PVC sanitary sewer line, two (2) manholes, and appurtenances to serve the Sutton/Rumbaugh Development Sanitary Sewer Line Extension, City of Lawton, Comanche County, Oklahoma. Action: approved.

10. Consider accepting the 12-inch water line along NW Fort Sill Boulevard constructed to serve the new Central Junior High School and accepting the Maintenance Bond. Action: approved.

11. Consideration and Approval of Grant Agreement 3-40-0051-19-2003 for Lawton Ft. Sill Regional Airport.

Bass asked what the funding source of passenger facility charges is. Haywood said the Chairperson, Dorice Shanklin is here and could explain it.

Shanklin said that is a charge put on each ticket issued at the airport and the amount depends on the amount of the fare. She said those are collected every month and built up to match our federal funding.

12. MOTION by Bass, SECOND by Hanna, to approve Grant Agreement 3-40-0051-19-2003 for Lawton Ft. Sill Regional Airport. AYE: Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Bass, Hanna, Devine. NAY: None. MOTION CARRIED.

Haywood said the Lawton Airport Authority has received a grant in the amount of \$187,830.

13. Consider approving an agreement between the Center for Creative Living Corporation and the City of Lawton for services to senior citizens. Action: approved.

14. Consider authorizing an agreement between the City and Marie Detty Youth and Family Services Center for the sponsorship of youth recreation programs. Action: approved.

14. Consider approving the following contract extensions: General Employees Accidental Death Insurance (RFPCL02-049) with Insurance One Agency, Inc; Accidental Death Insurance (Fire and Police) (RFPCL02-011) with Insurance One Agency, Inc. Action: approved.

15. Consider awarding contract for Anhydrous Ammonia (CL04-008). Action: approved.

16. Consider awarding contract for Water Clarification Chemicals (CL04-004). Action: approved.

17. Consider awarding contract for Liquid Chlorine (CL04-007). Exhibits: Department recommendation and Abstract of Bids. Action: approved.

18. Consider awarding contract for Elevator Maintenance (CL04-001). Exhibits: Department recommendation and Abstract of Bids. Action: approved.

19. Consider awarding contract for Bakery Products for City Jail (CL04-011). Action: approved.

20. Consider awarding contract for Rental of Cleaning Supplies (CL04-006). Action: approved.

21. Consider approval of payroll for the period of August 4 to August 17, 2003. Action: approved.

BUSINESS ITEM:

COUNCIL WENT OUT OF AGENDA ORDER AT THIS TIME TO ITEM #27.

27. Consider providing direction to staff concerning funding for the Lawton Philharmonic Society and receive a brief report from them.

Warren said he was contacted by the Lawton Philharmonic Society about their severe budget problem, approximately \$36,000 short. He said he spoke with our Finance Director and the Chamber of Commerce about this and how we could get some funding to this organization. He said he wanted to make it well know that this an emergency situation and isn t something he would ever come to the Council to ask on an on-going basis for just anybody who asks. He said they actually have problems with their budget and there is a opportunity for us to possibly use some unencumbered funds from Hotel/Motel Tax to provide them with the extra funding they need. Warren said we would do would need to increase the amount we pay to the Chamber and the Chamber in turn, would give the money to the Philharmonic. He said he spoke with Scott Hatch who feels the Chamber has enough give in their budget that they could probably do this for two to three months on their own before they started getting any money from the City, so that would give us time to build up a little bit extra. He said basically we would be funding their shortfall through Hotel/Motel funds we expect to get at the end of the year, that hasn t been promised to the Chamber or Museum; this would be extra funding that would be moved to them through the Chamber.

Endicott said part of the question for us would be our actual funds that come in for Hotel/Motel. We funded the Hotel/Motel at \$490,000, the Museum at \$55,000, so there could be, if we don t collect all that during the year, an issue. He said his understanding from the Chamber is they were going to try to fund part of that up front from some of their funds.

Warren asked Council to ask staff to come back with a plan to do this, using Hotel/Motel funds in excess and in the event there were not enough funds left, we would take the amount out of Council Contingency.

Shanklin asked if the Contingency Fund was thought about and he would rather do this out of that fund and if there were any funds left, reimburse us; they need these funds now. He said we do so many things that are not equally appreciated or beneficial to everyone, we should fund this out of Council Contingency Fund and if those funds become available, put it back in.

Warren said for their efforts, the Chamber of Commerce did meet this afternoon and their Board did approve going into this plan with us if this is what we desire to do.

Hanna asked how much is in the Council Contingency Fund.

Endicott said \$50,000.

Hanna said he doesn't think we will have enough with what's coming up, unless we have extra money coming in. He said this would put some things in a bind.

Shanklin asked if they need the money right now.

Warren said it is his understanding they are not pressed for it right this minute.

Ewing-Holmstrom asked what we normally use the Contingency Fund for.

Endicott said there have been varied uses for that fund; he said he would classify it as an emergency account for the Council to use as they see fit.

Jean Webb, President of the Board of Directors of the Lawton Philharmonic Society, said after 41 years as a Lawton cultural institution, presenting Lawton and Southwest Oklahoma with quality orchestral music, our future is in very real jeopardy. She said they have been walking a tight rope the last several years, attempting to balance the revenues with the expenses, by working harder to acquire ticket sales, patron support and special event fund raisers. Several of those years, large unexpected and non-repeated, revenue sources have saved our season financially. She said their Board has carefully reviewed their recent financial results and upcoming year's forecast. Their current season ticket sales, advertising income, sponsorships and patron support will not enable them to produce another season. She said they are facing closing their doors. She said if we let the orchestra collapse, it will probably never be rejuvenated and that would be an immeasurable loss to the arts available in our community. She said if the doors close, as the largest participant is Arts For All, that organization would assuredly experience a negative impact. She said according to the economic impact of the arts and cultural organizations on the Lawton Metropolitan Study, reflecting figures from 1999, the economic impact of the arts, is estimated at over \$26 million. She said the LPO certainly is a sizable contributor to that economic value. She said it is a distinction for Lawton to have a Philharmonic Orchestra which significantly contributes to the quality of life offered to our citizens, visitors and those individuals and businesses considering locating here; the orchestra is something that sets this community apart from others. She said they need from Council and this community, an endorsement for this symphony and its future and are asking for \$30,000 to enable to provide symphonic music that touches, inspires and uplifts us all.

Powell asked what is their time frame.

Webb, said they are doing a month-by-month review of their income and resources because they do not want to bankrupt, we are looking likely at the end of December to say we are done.

Powell said so there is time.

Webb said yes.

Patton asked what is the correlation between the Arts For All and the LPO; what kind of support do they give.

Webb said they are one of the member organizations of Arts For All and they have a formula on how they distribute funds Arts For All collects from different organizations. Also, as a member of that organization, they are charged with support of Arts For All, participating in their fundraisers, help staff events and do cultural things that organization stands for and we do outreach to the schools.

Patton said basically, the people of the LPO are the people behind and reinforcing the Arts For All, is that correct.

Webb said they have one board member who is their liaison as a member of Arts For All, but we work hand in hand as different members of the society do.

Patton asked how their trend in season tickets been?

Webb said season ticket sales are down 6% and they have worked really hard in trying to get renewals for season tickets and a great effort in the office to identify other potential people in the community who might join us. She said as of now, we need approximately 900 season tickets to help us be solvent this year and even with our efforts of going to the public at this point, we are only at 700 tickets.

Ewing-Holmstrom asked what the ticket prices were last year and what kind of increase in ticket prices this year did you put into effect to help yourself get out of this budget problem.

Webb said they made an increase in ticket prices last year and this year, what they elected to do was to recognize they would have to pay sales tax on tickets, so they factored that in so the money owed back for taxes wouldn't be coming out of revenue from tickets.

Ewing-Holmstrom asked if they receive grants of any kind.

Webb said they have some and have applied for some. She said they get funds from Oklahoma Arts Council and from our local arts organization. She said their office staff continues to try to be alert to different granting agencies for things they are doing that they might do. She said many grants don't give to operating expenses; if we want a new ticket sales mechanism for tickets, etc., that is the nature of most of the grants, not for operating expenses.

Ewing-Holmstrom asked what they did in the past when they found themselves short.

Webb said they have had some extraordinary support and events, such as a couple of years ago the National Symphony elected to pick Lawton as one of its benefit performances and that year we netted \$16,000 from that particular concert and if it hadn't been for that, that season would have been a loss. She said the next year they had three, one-time, significant funding sources from individuals and businesses to the tune of \$35,000 and if we had not had those, it would have been a devastating financial season.

Ewing-Holmstrom asked if Oklahoma City has a Philharmonic.

Webb said yes.

Ewing-Holmstrom asked if Tulsa had one.

Webb said they have gone down within this last year and this is the second time for Tulsa and it is her understanding that they actually went bankrupt. She said Lawton is the longest continuing running orchestra in the state. Oklahoma City has gone down previously, we have not.

Ewing-Holmstrom asked if the City was their Plan B.

Webb said they have plan A to Z. She said they felt it was important to come to the community and inform them so they were aware of our status at this point, so if it meant shutting the doors, they wouldn't say why we didn't let them know. She said they work very hard to publicize and educate the public about the LPO and it's amazing some people still don't know there is an LPO in Lawton.

Ewing-Holmstrom said those watching at home and many City employees are angry because we have furloughed employees this year and we know first hand just how bad a budget can be. She said she is not speaking for anyone on the Council except herself, but she is reluctant because of the current financial situation the City is in. She said she didn't vote to furlough employees; some would think how we could furlough employees and turn around and give the Philharmonic money to keep their doors open. She said you can see our position; even though the numbers work out on paper that we give it to the Chamber, etc., in the public it will not play that way. She said it will come back and haunt, maybe you, as an organization, or possibly the City Council, but that's why we will need to understand a little more about how Hotel/Motel Tax works, so we can explain it to the public if there is some sort of money shuffling; so they will understand this wasn't money available to us to balance our budget. She said that is the only reservation she has.

Webb said she understands.

Bass asked if the Chamber has offered them any money.

Webb said no, not that she is aware of.

Bass said, not in any of the past years.

Webb said not that she is aware of.

Shanklin said back in 1981 or 82, during the oil crunch, Tulsa and Oklahoma City lost their Philharmonic Orchestras, the City of Lawton did not, we were the only one in Oklahoma at that time. He said these people need to go away here tonight, knowing the year is going to be funded.

Warren mentioned, for anyone listening, we can't use Hotel/Motel Funds for the City Budget, that can only be used for Tourism. He said he wanted to make it clear that nobody was rifted, laid off or anything because of us not using Hotel/Motel.

Patton said he wanted everyone to understand, before taking the vote that he has nothing against LPO, but you have to know the Blvd. of Lights will be next. He said what other non-profit group having financial trouble will be waiting in line for us to fund them, do we want to go ahead and use the Hotel/Motel Tax as a kind of clearing house to make these donations to these other non-profit organizations? He said he thinks it's a big mistake, so he cannot, in good conscience, vote for it and would like everyone to think about that before we go on.

Shanklin said they have never asked, we have helped the Blvd. of Lights, we are right now, and these are the people in the voting age that support our CIP and we have never done anything for them. He said we do many things that are not beneficial to all of us equally; we will get our money back. This will send these people home, knowing they will have their season, that's all we are doing.

Vincent asked Shanklin, as maker of the motion, this is a loan from Council Contingency to the Chamber, as I understand it, to fund this program and when the Hotel/Motel Tax comes in, it will be returned to the City.

Shanklin said that is what we said.

MOTION by Shanklin, SECOND by Warren, to approve funding the Lawton Philharmonic Society in the amount of \$30,000, to be taken out of Council Contingency Fund, knowing Endicott will be working with the Chamber to put it back whenever the funds come in. AYE: Shanklin, Haywood, Warren, Bass, Devine. NAY: Patton,

Ewing-Holmstrom said she has a question before she votes. This is a loan, through the Contingency Fund we use for various programs to support Council and Council functions, what happens if the money does not come in?

Endicott said he does not have an answer. He said we funded the Chamber at \$490,000, the Museum at \$55,000; as Hotel/Motel Tax comes in each month, the Chamber requests various amounts of money and we fund the Museum on a monthly basis, until the \$55,000 is funded fully. He said he doesn't have an answer at this point, of what would happen if we don't get that full amount for funding this program.

Ewing-Holmstrom said with that answer, she would have to vote NO. MOTION CARRIED

Shanklin said are we going to go by the Rules of Procedure. He said he knows somebody has an item where they want to discuss Rules of Procedure and once you call the roll, you say yes or no or abstain; you don't get to preference your remarks or go into a dissertation.

Powell said the vote was five affirmatives and two negatives.

*Hanna was out of the room during the vote.

COUNCIL RETURNED TO THE ORDER OF THE AGENDA AT THIS TIME

OLD BUSINESS ITEM:

21. Consider approving the First Amendment to the Lawton/Ft. Sill Arts Council building lease at 17th and Ferris.

Bass said he had some questions for the Lawton/Ft. Sill Arts Council. He asked where their funding comes from.

Diane Brown from the Lawton/Ft. Sill Arts Council said right now they are a member group of Arts For All and we do the same procedure of helping on the Arts For All, as the LPO does, in all respects. We serve on their Board. We apply for grants from the Oklahoma Arts Council; the majority of that is for funding specific workshops and events, so that is an immediate pay out. She said right now they are looking for funding; most of their funds come from memberships, which they are working very actively to create some new dynamics and dimensions for the Lawton/Ft. Sill Art Council. New directions in being able to teach workshops and get a lot more arts available to the community of southwestern Oklahoma.

Bass asked if they, or the Lawton/Ft. Sill Arts Fund, every fund any money to the Parks & Recreation for any kind

of retirement party; did you every give the Parks & Recreation any money, say \$200 for any kind of retirement party?

Brown said not to her knowledge. She said she is a new President, but not to her knowledge.

Bass asked if the City could get out of this lease.

Brown said totally.

Vincent said this is an amendment to the existing lease; the existing lease provides a 30-day written notice for termination on behalf of the City. He said we could tell them in 30 days they have to vacate the premises, that is not changed by the amendment.

Bass asked if it was true, they need a long-term contract, like 99 years, to get grants.

Brown said yes it is. She said whenever they apply, especially if they want to do anything with their building that would be a structural benefit. They cannot go in and say they have a five-year lease, and ask for money to fix up their building. The only way they have credibility is to go in with a very long-term lease. She said they are not setting a president; this happened with the firehouse in Norman in 1970, they were already 33 years into their long-term lease. She said our community is well aware of the record that has been established for improvement and community interaction.

Devine asked Vincent about the contract. He asked if it goes to a buy-out, it won t be like out at the lakes where we will have to pay for all the improvements?

Vincent said this does not have a buy-out provision. In this lease, the organization is responsible for all maintenance of that building and if you recall, back when they had roof problems about four years ago, we did an exception to the lease to help them out on the roof.

Ewing-Holmstrom said for those who don t know, what exactly do you do with that building?

Brown said it is the sole housing for the Lawton/Ft. Sill Art Council. When she came in as President, she felt it was a very critical time; they could either stagnate or move forward and make an impact in this community and they are choosing to take some new steps to make a real artistic impact. They are starting some new programs, such as the Oklahoma Visual Arts Coalition has, called Momentum which integrates college students coming out with their degree and starting in the community and also working with high school students to get them involved in the world of art, to give them a support system, as means where they can not only experience art, but can share what they have learned. She said they will be working with Cameron University in a program named Centergee and a similar program for our more mature artists and they will do some outreach. Brown said right now they are starting several outreach programs in the community of Lawton. Brown read the Council s Mission Statement at this time.

*Hanna had to leave at this time (6:30 p.m.)

Shahan said in reference to the benefit to the City of Lawton, his department oversees all existing structures the City owns; this structure used to be a fire department station and this organization is utilizing this facility and it would probably be one of those facilities that would be dilapidated and be concerned about tearing it down. He said this organization is willing to make improvements and those improvements will be to the benefit of the City of Lawton. He said that is why he agreed with them on this; if their program could make improvement to the facility, as well as to the community, it would benefit our City.

MOTION by Patton, SECOND by Haywood, to approve the First Amendment to the Lawton/Ft. Sill Arts Council building lease at 17th and Ferris. AYE: Patton, Haywood, Warren, Bass, Devine, Ewing-Holmstrom, Shanklin. NAY: None.
MOTION CARRIED.

Powell asked Council to pull item #28.

28. **This item was pulled.** Consider adopting an ordinance that amends Sections 15-4-404 and 15-4-406, Smoking In Public Places, in Chapter 15, Lawton City Code, 1995, providing for prohibition of smoking in municipal buildings and vehicles and declaring an emergency.

BUSINESS ITEMS:

22. Hold public hearings and adopt resolutions declaring the structures at **416 NW Railroad; 1123 NW Ozmun; 1507 SW Washington; 1509 SW Washington; 1735 NW Ferris; 1739 NW Ferris; 1741 NW Ferris; and 1743 NW Ferris;** 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.

416 NW Railroad

Alltizer said this is a garage structure that was previously brought to Council in September 2002 and at that time a representative of the property owner appeared and spoke to the Council asking them not to condemn the garage at that time, that they were going to rehabilitate the structure and would remove the mobile home. She said this did not happen, we went to District Court and received a judgment ordering the property owner to remove or demolish the mobile home by April 18, 2003, the property owner has failed to take any action what-so-ever. She said because the garage was not condemned, she is bringing this back to Council so we may address both structures when we go out for bids on demolition.

PUBLIC HEARING OPENED AND CLOSED WITH NO PARTICIPANTS COMING FORWARD

MOTION by Shanklin, SECOND by Bass, to adopt Resolution No. 03-152 declaring the structures at **416 NW Railroad** 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 Warren, Bass, Devine, Ewing-Holmstrom, Shanklin, Patton. NAY: None. MOTION CARRIED

1123 NW Ozmun

Alltizer reported this property has also been before Council and condemned in December 2002; a new property owner appealed to Council and asked this to be brought back to Council in January 2003 to have the Resolution of Condemnation rescinded, which Council did. She said the new property owner did come in and obtain a permit to remodel the structure, a few new posts were on the overhang porch, but no other work was completed at that time, nor has been completed since. Alltizer said she found out the property did not actually change hands and the individual who obtained the permit to remodel the structure, actually never took title to the property. She said because nothing has been done except the front porch, she is bringing this back to Council for condemnation so we can move along to District Court.

PUBLIC HEARING WAS OPENED AT THIS TIME

Richard Mendon, owner of property adjacent to this property, at 1127, 1129, 1131 & 1133 Ozmun; he said his understanding was Mel Weatherly owned this property and he is trying to buy this property because it is an eyesore to him and abuts next to his property and the grass is never mowed. He said he would rather purchase this property than condemn it. His understanding is before Mel Weatherly, a man in California owned it, named Angelo Flores; he said Bobby Scoggins, is the realtor the County shows everything is sent to. He spoke with Scoggins and was told the property was sold and he is in a predicament and asks for some time for him to go in, talk to Scoggins, and attempt to purchase it.

PUBLIC HEARING WAS CLOSED

MOTION by Shanklin, SECOND by Devine, to adopt Resolution No. 03-153 declaring the structures at **1123 NW Ozmun** 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: Warren, Bass, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED

1507 SW Washington

Alltizer asked if the next two properties could be discussed together and have separate public hearings for clarification purposes. She said there are two mobile homes on these properties next to each other; one mobile home protrudes onto the adjacent property line for about 6-8 feet. The property owner of 1507 would like to have those mobile homes removed, but they are not assessed on his property. The reason this is being brought before Council is they are both in dilapidated conditions, we have had numerous problems with them being unsecured over the past couple years; one has no record of utility services and the other mobile home's utility services were terminated in March 1999 and both have been sitting vacant and unsecured for a long period of time. She said the property owner of 1509 Washington is here to speak and wants Council to condemn these structures to maybe force some actions from the adjacent property owner to go ahead and remove these mobile homes. She said at this point they are beyond being habitable and beyond reasonable repair.

PUBLIC HEARING OPENED

Cecil Graham, owner of 1507 SW Washington, said he owns the land but can't get the owner of the mobile home to remove it. He said the owner of the mobile home was going to buy the property from him, but gave him a hot

check.

PUBLIC HEARING CLOSED

Powell said Vincent has requested we table 1509 SW Washington and will bring it back.

MOTION by Haywood, SECOND by Bass, to adopt Resolution No. 03-154 declaring the structures at **1507 SW Washington** 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: Bass, Devine, Ewing-Holmstrom, Shanklin, Haywood, Warren. NAY: None. MOTION CARRIED.

*Patton was not in the room during the vote.

Bass asked why 1509 SW Washington needed to be tabled.

Powell said Vincent requested this be tabled to speak with Alltizer for clarification purposes.

Vincent said there is a legal issue he needs to research about the effect against Mr. Graham if we were to take a Resolution finding him at fault, when in fact, it looks like, there may be a trespass on his property and Vincent really wants to look at this and get an answer.

MOTION by Shanklin, SECOND by Devine, to table 1509 SW Washington. AYE: Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Bass. NAY: None. MOTION CARRIED.

1509 SW Washington - Tabled

1735 NW Ferris Avenue

Alltizer said as with all the structures being discussed tonight on Ferris, this is an effort to clean up our major thoroughfares. She said these structures mainly pose a blight on the community, the majority are structurally sound but have been neglected over the years and several have a lot of overgrowth, so it is difficult to take pictures. She said this specific structure is a duplex, residential structure; the City utility services were terminated in May 1998. The structure has been boarded and secured for over four years and have not had any contact from the property owner.

PUBLIC HEARING OPENED AND CLOSED WITH NO PARTICIPANTS COMING FORWARD

Shanklin said this is Hanna s Ward, across the street from his, and he is concerned if we contacted the owners, Mark and Virginia Edwards.

Alltizer said they have not contacted her office and notices of a public hearing were sent out and the signed green card was returned, but as to anyone contacting our office to determine what could be done to either inspect the property or rehabilitate it, we have had no contact.

Shanklin asked if this was a property where we would sue them in court and not use our funds to demolate.

Vincent said right now we are on hold, but are getting ready to resurrect the program of going to court. He said he did send a memo to the City Manager the court costs have gone up 50% on these type of situations, but we are going in and starting the worse ones, so yes we do plan on going to court.

MOTION by Shanklin, SECOND by Haywood, to adopt Resolution No. 03-155 declaring the structures at **1735 NW Ferris 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. AYE: Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Bass. NAY: None. MOTION CARRIED.

1739 NW Ferris Avenue

Alltizer said this is a duplex residential structure; it does have current utility services and part of this duplex had a fire in the spring of this year, the end of March, and the property owner has contacted her office stating he would like to use the fire damage side for storage and rent out the other side. She said they haven t been able to go inside this property and do an interior inspection because it is boarded and secured on the fire-damaged side.

PUBLIC HEARING OPENED

Wayne Harrison, owner, said he recently inherited this property when his mother passed away. He said he had a minor fire and nothing shows outside, the utilities have never been turned off on this property, and he passed out photos for Council to look at. He said he does not wish to use it for storage, he did board it up and there was no insurance on the property, no fire damage outside, it's strictly inside, and the other half is rented and people are living in it. He said right now he just needs to keep it boarded up and at a later date either sell it or rebuild it, he's not sure what he is going to do yet. He said he has owned this property for a year and if he started to rebuild this one board at a time, and it was an arson fire, he will have it rebuilt before whoever set the fire is caught. He said it has a new roof on it and the place doesn't look bad, the grass is mowed, it's kept up and is rented out. The side that had the interior fire has been boarded up according to City Code and he personally doesn't see it as an eyesore.

Ewing-Holmstrom asked what the people renting the other side think about this being used for storage.

Harrison said they rented it after the fire. He said one side was the inside arson fire and he received a letter, which he was told this letter is sent to anyone having a fire, so the notice he received from Neighborhood Services did not mention anything about a fire. When he called they said there was some stuff outside, and there was, from the fire department dragging things out of the house as it burned. He was told not to go down there and mess with it because it was an arson fire and there was other things and reasons they did not want us to go there, so we didn't. When we could go there, we cleaned it up, but before we could, we received the letter saying we had to clean it up. It has all been cleaned up and boarded up per City Code and other side is rented.

Ewing-Holmstrom asked what his long-term plans for it were and if he was just going to keep storing things in it.

Harrison said he doesn't have anything stored in it now and has one side rented out. When he can, he will probably rebuild it. He said to answer your question, I don't know, I'm not using it for storage, I don't need it for storage, and mainly I just want it boarded up, it's safe, no one's bothering it, it's not an eyesore and I don't see the problem.

Ewing-Holmstrom said that's a matter of interpretation, when you drive by a building that's boarded up.

Harrison said it is not boarded up on the front, it's boarded up in back, you don't see it from the street.

Devine asked Vincent if we have something in our ordinances that he would have a certain length of time to remodel that?

Vincent said we have something in there that talks about 90 days after some catastrophic event and he couldn't remember and didn't have a copy with him, so probably the best thing to do would be to table this until we can get that information.

PUBLIC HEARING CLOSED

MOTION by Shanklin, SECOND by Haywood, to table 1739 NW Ferris Avenue until next Council Meeting. AYE: Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Bass, Devine. NAY: None. MOTION CARRIED.

1741 NW Ferris Avenue

Allitzer said this is also a duplex residential structure with a detached accessory structure at the rear of the property. She said the City utility services were terminated in December 1997 and has been vacant, boarded and secured for over five years and have had no contact with the property owner.

PUBLIC HEARING OPENED AND CLOSED WITH NO PARTICIPANTS COMING FORWARD

MOTION by Shanklin, SECOND by Bass, to adopt Resolution No. 03-156 declaring the structures at **1741 NW Ferris 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. AYE: Shanklin, Patton, Haywood, Warren, Bass, Devine, Ewing-Holmstrom. NAY: None. MOTION CARRIED.

1743 NW Ferris Avenue

Allitzer reported this is a duplex residential structure, City utility services were terminated in March 1997 and belongs to the same owner we just addressed at 1741 NW Ferris Avenue. This structure has been vacant, boarded and secured for over five years and have had no contact with the property owner.

PUBLIC HEARING OPENED AND CLOSED WITH NO PARTICIPANTS COMING FORWARD

MOTION by Shanklin, SECOND by Bass to adopt Resolution No. 03-157 declaring the structures at **1743 NW Ferris 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. AYE: Patton, Haywood, Warren, Bass, Devine, Ewing-Holmstrom, Shanklin. NAY: None. MOTION CARRIED.

24. Consider an application for a revocable permit to Bethlehem Baptist Church for the purpose of parking and maneuvering on the NW Arlington Avenue and NW 6th Street right-of-way and in the alley in Block 60, North Addition.

Bigham said the Bethlehem Baptist Church has applied for a building permit to build a facility on the west side of their main sanctuary building. The new building they propose will be located in what is a current parking lot and under City Code the off-street parking requirement states when you expand a property, all the parking has to be brought up to Code. He said this church has been there a good number of years and in order to facilitate additional parking, they are proposing to build a parking lot where currently stands a single family house. They are putting in new parking and they are currently using City right-of-way and under this Revocable Permit, which is authorized under City Code, the Council may allow them to continue using that right-of-way for parking and maneuvering and staff would support this.

Ewing-Holmstrom asked if there were any utilities in that right-of-way.

Bigham said he does not have an answer to that; this is currently paved, so there will be no change and no additional paving put down.

MOTION by Shanklin, SECOND by Haywood, to approve this revocable permit to Bethlehem Baptist Church for the purpose of parking and maneuvering on the NW Arlington Avenue and NW 6th Street right-of-way and in the alley in Block 60, North Addition. AYE: Haywood, Warren, Bass, Ewing-Holmstrom, Shanklin, Patton. NAY: None. MOTION CARRIED.

*Devine was not in the room during this vote.

25. Consider approving an ordinance amending Article 17-1, Chapter 17, Sections 17-1-6-164 and 17-1-7-171, Lawton City Code, 1995, providing for employees to pay health insurance premiums when taking family leave or suspended without pay, establish severability, and declaring an emergency.

Golden said the intent of the corrections was amendments so the two sections are the same. As the Code is currently written, employees taking unpaid, family medical leave, or if suspended, without pay, pending a disciplinary action, the Code does not require them to pay their portion of the health premium. The correction proposed here today, would require the employee to pay currently their \$50 per month in order to keep their health insurance in effect.

Shanklin asked if he had sick leave and terminated his employment after July the 1st, he wouldn't get that sick leave pay.

Golden said no, there's a formula it's calculated by, you would get some sick leave, but it wouldn't necessarily be at the full hourly rate. It's something like 2.5 times the number of years of service.

Shanklin asked when this different rate come into effect?

Golden said it was approved as part of the revisions we made for the new budget.

Shanklin said this should be from July 1st on, how can we go back and take it away from them.

Golden said it is from July 1st on.

Shanklin said two years ago they were working; now we took that sick leave away from them, how did we do that?

Golden said we made the policy effective July 1 and anybody who falls into the category you specified, after July 1 falls under that policy, there was no retro active or grand fathering of that policy.

Shanklin asked if Council approved that.

Golden said yes sir they did.

Shanklin asked Council if they understood that. We put that money aside, did we not? He said if he understands it, you get 1.1% on sick leave.

Vincent said the old formula, and he didn't remember the break point, was you got 25% of your sick leave up to

about 150 hours, 50% of your sick leave between 150 & 300+, 75% up to about 400, and anything over 576, you got paid 100%, which we call Sick Leave In Lieu. He said if you recall, when Council adopted the budget and made a change in Sick Leave In Lieu, there was a total change in the formula for pay back on sick leave.

Shanklin said that wouldn't begin on July 1st, you can go back and take it away from me and I'm expecting it?

Vincent said we paid Sick Leave In Lieu in June, for anybody who was entitled to it and July 1st we started a new period anyway, so it all balanced out.

Shanklin said he knows an individual that it didn't balance out.

Vincent said he has 576 hours of sick leave on the books himself.

Shanklin said you lost it.

Vincent said no sir; it's still there.

Ewing-Holmstrom asked the Mayor if we could stay on track, this doesn't pertain to this particular item.

Vincent told Shanklin he would get with him and show him the change.

Shanklin said Council didn't vote to go retro active, he didn't. He said he didn't understand it that way.

MOTION by Shanklin, SECOND by Haywood, to approve Ordinance No. 03-41 amending Article 17-1, Chapter 17, Sections 17-1-6-164 and 17-1-7-171, Lawton City Code, 1995, providing for employees to pay health insurance premiums when taking family leave or suspended without pay, establish severability, and declaring an emergency. AYE: Warren, Bass, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

(Title read aloud) Ordinance No. 03-41

An Ordinance amending Article 17-1, Chapter 17, Sections 17-1-6-164 and 17-1-7-171, Lawton City Code, 1995, providing for employees to pay Health Insurance Premiums when taking family leave or suspended, establish severability, and declaring an emergency.

26. Discuss and determine an appropriate course of action to address the commercial structures identified in the attached list. Provide appropriate guidance to staff.

Bigham said this action on commercial properties was started earlier this year: sending a letter out to property owners was a follow-up of the earlier action in the spring. He said City Council discussed this at a Special Council Meeting last Thursday and staff is asking for direction in which way we should proceed with this. He said in Council's distribution box today was an update of contacts staff had received back from property owners asking what they need to do. Meetings have been set up with Neighborhood Services staff to meet with these property owners, but there have been a few property owners who have not contacted the City. He said this, in itself, is a positive action from the community in looking at ways we can improve ourselves. Bigham said staff is seeking Council guidance in which way to go with this and he suggested we follow the normal statutory and City Code procedures on commercial buildings as we do with residential, unless Council has other directions.

Powell said according to Alltizer's letter to Council they have had a good response from the people.

Shanklin asked if we are telling these people what they need to do to bring it up to code.

Bigham said no formal action has been taken yet, in the letter we mailed out last week, we provided a checklist. He said we would work with these people and meet with them, go down the checklist, at their property and advise them of which corrections need to be made.

Shanklin said those who don't come in, are we going to their property and make the checklist.

Bigham said then we would go through the notice procedure and bring that action before the Council for your consideration, if no action is taken, but we wish to work with the property owners in getting this taken care of.

Bass asked if the City of Lawton has written any citations to the commercial property owners.

Bigham said not to his knowledge.

Bass asked none ever.

Ewing-Holmstrom asked why it that? Is it not in the Code? Why are these property owners not being cited?

Bigham said there is not a distinction between types of buildings in the condemnations.

Ewing-Holmstrom asked why do we have businesses that have been dilapidated for five and ten years.

Bigham said this was an unwritten policy set by Council that you did not bring commercial buildings to the Council for condemnation, that was never successful or hardly ever successful in getting commercial buildings corrections taken care of.

Ewing-Holmstrom said she thinks Council whole-heartedly supports you in these efforts now.

Bigham said this is an effort to look towards this, because we do have a good number of buildings that do need attention. This is a positive action to enhance our City by the proper use of the Codes.

Devine said he is fighting a losing battle. He said he has made his comments and am pretty well going to stick to it; this was suppose to have been a deal to work with people and now we re going to shove it down their throats. He said he thinks this is dictatorship.

Bass asked about the general requirements on the checklist, if any of these are wrong, can you legally give them a citation on it?

Bigham said yes.

Warren said I hope we have a better system in place to identify the buildings that are going to be put on the list. He said he just sat here and listened to a gentleman who has a non-commercial structure that s boarded up to City Code, the City of Lawton has never been inside the home to see how badly it s burned, yet it s on the dilapidated list. We have a real problem there, just because the house is burned, we don t know how badly it s burned, it could have been a mattress that caught on fire for all we know, yet we ve put it on the dilapidated list. He said it is not visibly dilapidated; he tried to find the house because he knew it was boarded up, drove by and there s no boarding, it looks just like every other house; it has utilities, people are living in it, but yet we have it on a list to tear it down. He asked if we are going to do a better job than that.

Bigham said it meets the statutory criteria for a dilapidated structure.

Warren asked how?

Bigham said by State Law. He said staff makes an effort to work with people on buildings and such conditions. If we can t do it by calling, going by the property, then we go to the next level; we send notice and still receive no contact from these people in an effort to try to get them to work with staff in trying to get these buildings taken care of. If nothing still, then we go to the next level and bring it to Council for a condemnation resolution. As Council has witnessed, now you are passing resolutions, in many cases, they still don t respond to your message, and the next level is District Court.

Warren said Bigham was missing his point; the whole purpose of this is to clean up and we weren t going to run this down people s throats, but yet, the house we were just talking about has people living in it, to drive by it, there s nothing wrong with it. He said he just doesn t want that happening with commercial properties.

Bigham said he would venture to say, if that gentleman, after receiving the notice from the City, would have contacted Neighborhood Services, it probably might have not been on the agenda.

Warren said he did contact Neighborhood Services.

Alltizer said he contacted her office after the notice was given about Public Hearing on August 21st.

Bigham said his point is, we go through a varying degree, and we are not starting out just bringing it to Council for condemnation. He said we go through a series of steps to try to get the property owners to work with us and he thinks with commercial structures and greater investments, staff will strive more to work with these people.

Ewing-Holmstrom said she supports Neighborhood Services and their efforts, it s not like the City hasn t gone above and beyond for these business owners, these are community leaders, they have an obligation to this community to make their business, whether vacant or not, look respectable; it should not be brought to Council to clean up these business parks, they should have a sense of responsibility and that s the bottom line, there is no sense of community here. It s being brought to us because this is the last ditch effort, isn t it?

Bigham said correct.

Ewing-Holmstrom said we are the ones who are going to have to cram it down their throats. She said some of these businesses have been sitting here ten years, that s not a throat cramming, that s like come on, how long do we have to give these business owners?

Powell said this started back with a letter suggested we send out and by reading Alltizer s letter, there has been a very positive response from our people showing a degree of effort on their part. He said we want to start to work on these things, we want to be a part of the clean up and he has had two personally come by and see him; one is going to tear down and the other is going to do what the City ask them to do, so there has been some positive results and there s probably some on this list that we all know about may not, but Devine has talked about a committee going and talking with some of these people and identify these things and go to work and give them that last ditch effort. He asked Council what are their directions for staff.

Devine said he thinks we can get together a committee and talk to some of these people who are not responding to it and get them to respond. He said when this originally started, it was a nice friendly little letter sent out to ask these people if we could help them in any way, the Chamber had identify money to help some of them who didn t have the financial help to do it and the next thing we do is send a letter to them, not asking them anymore and we are now here to make the laws that we can make them do it. He said what is that called in your opinion, to him, that is dictatorship. He said we are not asking the people, we re telling them.

Shanklin said we are asking them to clean up Lawton.

Devine said it is beyond that point.

Shanklin said that s your opinion.

Devine said yes that is my opinion I am giving sir and I ll honor your opinion when you get ready. He said if we get a committee together, he would volunteer his time to work with the Chamber or anybody who would want to go talk to these people. He said commercial property is not like residential, you are going to do one thing to a residential home, you are going to get it where somebody can live in it and commercial property you can not. He said you can not go in there and bring it up to all the City Codes for the simple reason, how do you know what that piece of property is going to be used for. If you go in there and try to bring the electrical, plumbing and everything up to one thing and somebody comes along and rents it for something else, they are going to have to take all this and change it over to what they want. He said we can get a committee together and make them clean up the outside, but the insides of these buildings on commercial properties, he doesn t know how you are going to tell those people the bring it up to Code.

Powell said Alltizer s letter has devised three different positive things and if she would share this with Council, not tonight, and to compile that list, which she has 30 listed and hopefully at least 50% of them and we have 15 that have not, or if they have, it s been a negative response, then the committee, if Council wants to, would go out and contact these people and that would give them a second and/or third opportunity to go ahead and pursue. In the meantime, we would have these other 50% working on their projects. He asked Council if they would like to do that and give that direction to staff.

Bass said to him, we are wasting our time. He asked how soon can you start writing tickets to some of these people who are not responding back to Neighborhood Services, that s his opinion, because they are not listening anyway, they don t care if they got the notice and everybody knows a lot of the people we are talking about and his opinion is to give them 30 days from today, if they have not responded back to Alltizer, she writes them citations and they ll see Alltizer because they will be in the Court House; that s the only way you are going to wake them up.

Ewing-Holmstrom said she is with Bass on that one. How much slack are you going to give them?

Bass said he is not trying to cram anything down anybody s throat and just like Ewing-Holmstrom said, ten years is not cramming. He said it s just taking that back road and not facing up to your obligations and what you need to make the City improve. He said give them 30 days to contact Neighborhood Services and if they haven t by then, they weren t going to anyway, start writing your citations and let s go, let s get on with it.

Powell said if that s what Council wants, he doesn t have a problem with that, but, on the positive side, when you send out 30 notices and get 50% positive response back on it, you ve made progress.

Bass said those 50% won t get citations, those guys are going to work and bring their property up and the rest of them are not.

Warren asked if we are going to do this with non-commercial properties too.

Bass said you bet.

Warren said we are not issuing citations to them as a general rule.

Ewing-Holmstrom asked if we even have the staff to do that.

Bass said he doesn't think you can pick and choose which one you can write a citation to.

Alltizer said it has generally not been their practice to write tickets on dilapidated structures, residential structures or commercial because it is very hard to find the owners. We don't have a viable person to issue a citation to, if we do have someone who contacts us, often they are out of state, so it is really spinning our wheels to write tickets and that's why we have gone with the City Attorneys in trying to pursue these in District Court. She said you can see from tonight, we brought a structure back to you that we had a District Court Judgment and still we have no action from the property owner, so the City is going to go in and tear that structure down. We traditionally have not written tickets, we can, but it's not going to be that everyone gets a ticket because we don't have an individual with the identifiers to actually issue that citation in Municipal Court.

MOTION by Bass, SECOND by Ewing-Holmstrom, to give commercial property owners 30 days from today and after 30 days they have not talked to Neighborhood Services or they haven't been able to contact the owners to get into the buildings to see exactly what they have to do to bring it up to Code, then they start writing citations. AYE: Ewing-Holmstrom, Shanklin, Patton, Haywood, Bass. NAY: Devine, Warren. MOTION CARRIED.

ADDENDUM BUSINESS ITEMS:

1. Consider discussing and providing direction to staff on a proposed project to resurface a portion of NW 50th Street in the vicinity of the Cecil Lawson Cadillac-Buick dealership.

Powell said he spoke with Mr. Lawson last Friday about this and has come up many times in the past and he went out personally to look at this. He said Mr. Lawson and his staff has been working on that road themselves. This is the service road in front of his car dealership, to the west end of that; it has been resurfaced by the City.

Bass said he was out there today speaking with Mr. Lawson and what has happened is when you own a car dealership and the asphalt breaks loose and kids are walking by, what's the first thing they do; they reach down and get them a little piece of asphalt and throw it at a car, which happens to be Cadillacs. He has a lot of potholes and lot of areas that have problems out there. They did a great job on the west side of that road, they brought it all the way around and it looks great. What he needs is the front of his building where there's already curb and guttering taken care of. Bass said this was brought to Jerry Ihler about six or seven months ago and he was going to look into it, but the problem was we didn't know who owned the property.

Powell said that has been clarified now.

Vincent said all the properties are now in the name of the City or the State of Oklahoma and if it's the State of Oklahoma, we have a maintenance agreement.

Bass said he would like to make a motion to have that road resurfaced if we possibly can.

Warren said he would second that because when we did the work on the overpass there several years ago, we pushed a bunch of traffic onto that road from the residential area and it really does need some attention.

Bass said they have a drainage problem also, but he said it's not as bad as it seems to be; it only backs up when it rains. He asked how we do this. He said he wants to make a motion that we go ahead and get started on this project.

Powell said we need to identify a funding source on this and he heard a second to the motion.

Endicott said he asked Mike Johnson to address part of the issues involved; Ihler isn't here, so he asked Johnson to come forward.

Johnson said he was the Assistant Director of Engineering for the City and Ihler is out of town, so he is here in his stead. He gave a quick background on this project: about a year ago, there was a Council Agenda Item requesting Public Works prepare a cost estimate for reconstruction of the entire section of 50th, from Cache Road up to Ridgecrest Addition. He said we did that and the estimate was about \$250,000 to completely reconstruct that section of road and at that time, we did not have all the right-of-way. He said in the meantime, we did reconstruct about 400 feet through our FEMA Program, from Ridgecrest Addition south to near the front of Mr. Lawson's property.

Shanklin asked why we didn't do all of it. Why didn't we get FEMA to pay for all of that?

Bass said they didn't know who owned the property.

Vincent said it was always ODOT property; there was an issue about the maintenance because that was part of the Quannah Parker Trailway, we weren't sure who had maintenance responsibilities.

Powell said there was an issue about a Quiet Title.

Vincent said we did the Quiet Title on what they are now calling the north 400 feet; we had to get that from the heirs of the people who developed that subdivision.

David Tracey said the reason it wasn't overlaid is him. He said first of all, FEMA only gave us \$3,500 to work on the street, he spent \$12,000 of Street's Budget; he felt that's all he could unless they had safety issues. We did not have safety issues and we still don't; we have a street he considers fair, not good, but fair, so he elected to leave that off at this time and approach Bill Baker and Jerry Ihler for a determination at the request of Mr. Shanklin, at the time, asking could it be considered then. He said he was told by Baker and Ihler to stay focused on FEMA and safety issues and we'll come back and get that later. He said he has it planned, hopefully, for next spring, using regular budget, if he can get to it; he has so many safety issues right now and FEMA, he just can't get to it at the moment. He always intended to do the work and it's still on our program, but we haven't forgotten the original request, it's still there. He said there are safety issues all over the City; push ups and bumps on E. 45th Street, on Sheridan and we are doing Tower Drive right now, they have all been identified, they are all multi-million dollar potential liabilities to the City and he felt, at the time, that Mr. Lawson's problem needs to be addressed at its proper time and we have not hit that yet. He said maybe by spring next year we'll be there because FEMA will be done and all the safety issues, which we are going to be concentrating on in the next three months, will be behind us, to limit our liability.

Bass said they did an outstanding job on the west side of that road.

Tracey said like Avenue G, we just did Wolf this week, we're doing great work, many bad areas, but we have to keep on the safety issues. He said he has five or six other streets other people have requested, members of Council, which are also going to be done later, he said he hasn't forgotten anybody and they will all eventually be done.

Haywood said all of FEMA's projects have to be finished by November.

Tracey said yes and he's not sure if they are going to make it, they are going to be close though; he has only till November to finish all the FEMA work, or we will lose the funding.

Powell said with what we have heard this evening, with the FEMA and the liabilities with the safety issues, it is in your plan to come back and work Mr. Lawson in, in all probability, next spring. He said hopefully we can go to Mr. Lawson and he will accept this.

Bass asked if they could go out there and patch; there's some areas right there that need to be patched and it has some big chunks out of it. He said he looked at it today.

Tracey said yes they will do that, but there are some issues on the approaches, which we normally don't do, if it's a private approach. The street is in good shape; we patched some potholes in the last couple of days. There are some issues going into their approaches, which we may not be legally able to do.

Bass said he thinks this comes out far enough.

Tracey said he will double-check it and will patch everything that's legal to patch.

2. Consider discussing proposed amendments of the Council rules of Procedure that will establish (1) rules of conduct and decorum to be followed by Council members (2) action(s) that may be taken for noncompliance with the rules, and/or (3) procedures for appointment of a Sergeant-at-Arms to attend all sessions of council meetings, to include Executive Sessions. Direct staff to provide any assistance as necessary.

Ewing-Holmstrom said she agenda'd this item because of what happened in executive session Thursday night. She said this is the second time she has witnessed disruptive behavior in executive session by a particular Council Member and she said she was not voted into office to have to defend herself physically in any sort of encounter in executive session. She said it's unprofessional and it's uncalled for, so Devine and her have requested we create Rules of Decorum but also have a Sergeant At Arms at hand, whether in the meeting or right outside the door for the protection of Council members and anyone else who may be in that executive session meeting. She said she has requested from OML a copy of samples of Rules of Decorum and also the Rules of Non-Compliance; those were faxed to her and she faxed them to legal today, they are in Frank's box and Vincent and her have discussed it. She asked Vincent if he had any comments.

Vincent said he talked to OML after Ewing-Holmstrom talked to them and what she received was the Rules of

Decorum for the City of Moore, which has to do with the conduct of third parties, which would need to be revised if we are going to apply it to Council Members. He has passed out, at Devine's request, the Charter Provision allowing the Council to determine its own rules, a copy of the current rules, which adopts Robert's Rules of Order if not amended or addressed in the Council's Rules and a copy of the provisions of Robert's Rules concerning conduct of anybody at the meeting. He said that is all the comments he has.

Ewing-Holmstrom asked Vincent if this handout specifically addresses personal attacks, offensive, abusive language or anyone that could be in possible physical danger.

Vincent said no mam, not specifically.

Ewing-Holmstrom said she thinks that needs to be added; it's one thing to say you have to behave, it's another thing to talk about what would happen if an attack actually did occur and what would be the result to that member.

Vincent said Jensen advised him that he had spoke with Ewing-Holmstrom and we are not prepared to recommend any specific changes or revisions to Council Rules of Procedures, we are very well prepared to write at whatever direction the Council chooses to direct us to write, but we do not have any suggestions.

Ewing-Holmstrom said she does, if that happens again, what happened Thursday night, the Council member should be removed, forcibly by a policeman or Sgt. At Arms. She said no one wants to speak on this issue, so she will be glad to speak. She said she was scared Thursday night and never wants to be in that position again and that's why she left executive session.

Shanklin said there were two actions the other night and one of them was a statement was made and he doesn't know if that offended her (Ewing-Holmstrom) or the reaction by another individual to that statement, but that statement is political and it's not going to go away. He said are you (Ewing-Holmstrom) saying he did all the attacking.

Ewing-Holmstrom said she never mentioned which Council member was inappropriate in the executive session.

Shanklin asked her to repeat that.

Ewing-Holmstrom said she is not the one who just said who was misbehaving in executive session.

Shanklin said he couldn't help that. He said he made a statement and it upset an individual and evidentially it had some validity or it should not have upset him then. He said if it were a lie or exaggeration, it would have sailed right over his head. He said there was never any danger in there the other night, of any kind.

Ewing-Holmstrom said there is a difference in making a statement and throwing papers across the table, knocking beverages over.

Shanklin asked who threw the papers first.

Ewing-Holmstrom said it's not a matter of who threw them first.

Shanklin said Ewing-Holmstrom is pinpointing him and he's here on TV and that's not correct. He said the statement he made is going to come back and she is part of that statement.

Ewing-Holmstrom asked Shanklin if he would like to repeat the statement so everybody knows what he said. She asked him if he would like for her to repeat it.

Shanklin said yes mam, if you'd like to.

Ewing-Holmstrom said that he (Shanklin) called the Mayor a lying shit-ass. She asked him if he would like that to be a matter of public record, what goes on in executive session, because what's in your head is not what happened. She said Council needs to speak up or these rules will be continually broken.

Shanklin said we have rules and we haven't honored them at all, it begins with the Mayor's chair and it begins with you (Ewing-Holmstrom). He said she continues to monopolize almost every agenda item and when the roll is called, you either vote aye, nay, or abstain, you don't get to go into a dissertation. He said if we are going to do one, let's do all of them and probably some of us won't get as upset. He said she has people sitting around her that are not completely happy with her monopolizing. He said he'll apologize with what happened the other night, but he doesn't think anybody was in any danger, so to say, we can't live with what we already have, you need to read it and look at it. You know you don't get to make a third substitute motion, you make two; if you want to make a third substitute motion, you can say, if the Mayor recognizes you, if this fails I will make a substitute motion. He said we don't live by this book, so you can't pick and choose; if you want to live by all of it, he can do it. People to speak 3

minutes, he can handle that, and there used to be in here, you got to speak twice on an agenda item, each one of us can speak twice; if we really want to do it, we have the format, all we have to do is just do it and the Mayor's not anymore guilty than the Mayor before him or when I was there. He said we came down here to debate, if we are all going to agree to the same thing, we don't need anybody, we don't need this Council. Shanklin said to say we are not going to get upset at some point in time, that's not true, you (Ewing-Holmstrom) got upset, and you think some of the rest of us haven't been.

Ewing-Holmstrom said she has never lunged at anyone in executive session and she has witnessed him (Shanklin) do it two times and she won't go into executive session again until the Council decides to vote on a Sgt. At Arms for the safety of those of us in executive session.

Warren said he never feared danger to himself at any time. He said he was listening to the recreation of this and wants to make sure everybody knows that Ms. Ewing-Holmstrom was never involved in any of this, she was behind anything that happened, she was never in any danger.

Ewing-Holmstrom said she was sitting next to Shanklin, that makes her a part of it and it makes Warren a part of it as well.

Shanklin said five feet away.

Ewing-Holmstrom said her chair was right next to his and she wasn't going to debate the issue and asked Council to get back to the subject. She asked if they were going to create or add to the current Rules of Decorum and are we going to choose a Sgt. At Arms. She said we don't need to rehash what happened the other night, each of us knows what happened and now the public knows and it's just as well.

Bass asked how you could hand out a 12-page memo and expect us to read it in 3 or 4 minutes and decide what we have to do with it. He said if you want to bring it back to the next meeting, after we read this, that's fine, it's a lot to decipher. He asked what area do you want to work on.

Ewing-Holmstrom said specifically we want to address the Sgt. At Arms and what is the outcome of a non-compliance when we are talking about behavior in executive session or the Council floor.

Devine said the Sgt. At Arms is what he was more concerned about.

Bass asked what page is this on.

Vincent said Robert's Rules of Order says the Sgt. At Arms is optional by members of a group. There is no procedure for selecting a Sgt. At Arms in Robert's Rules of Order, nor is there any procedure for selecting a Sgt. At Arms in our Council Rules and Procedures. He said if the Council did want to do that, they need to come up with who might possibly be the Sgt. At Arms and what their roll is, besides just selecting one.

Patton said don't we have Chief Thorne or another police officer on duty outside during the executive sessions? Is there someone posted nearby?

Devine said we have an officer here in the Council Chambers itself, but not when we go into executive session. He said he didn't really want to go there, because he felt like the problem he had is water under the bridge and it's passed and didn't want to rehash it. He said he really feels we need to have someone to be in the executive session, as a Sgt. At Arms, in case we do get overheated and we all get overheated occasionally, but when it becomes very verbal, abusive and to the point of almost physical, there needs to be someone there. He said he didn't think the other Council members should be the ones to step in and try to stop the problem that's going on. He said he feels the Chief of Police would be very appropriate for that for two reasons; 1) he is a law enforcement officer and 2) he's a non-union person, so if he happens to be in there while there's negotiation or anytime we are talking about union items, it would not involve the union at all because he is not a part of the union any longer. He said we are peers of the community and we should act accordingly; that's why people voted to put us up here, to be their peers and representative, not to get into name calling and threatening physical abuse.

Bass asked if we are doing things different in executive session than what we are suppose to be, because things get overheated in executive session very quickly. He said when we walk into the room, you don't even have to say anything, and things are already hot.

Devine said Bass was the one who intervened into that.

Bass said he never felt like he was in danger.

Devine said you don't and I don't, but if you were a woman, wouldn't you have felt like you would have been?

Ewing-Holmstrom said hey, it doesn't have anything to do with sex, what it has to do with is professional decorum. She said when she was voted in office, she knew she was taking on a challenge, one of those challenges was not suppose to be watching grown men behave like grade school bullies. She said she would not endure that anymore. She said how can you go in there with an open mind and clear conscience and start working on a project that is suppose to be of such great importance that it's in a closed door session, this happens and then you're suppose to just forget it and start focusing on what you're doing? No, I can't work under those conditions, maybe you can and maybe you all are used to it, I'm not and I won't work under those conditions.

Patton said the problem with all that is you are dealing with humans and human emotion; 150 years ago, or so, Congress passed a law that fire arms weren't allowed on the floor because some people would pull guns and everything else during debates, during legislature. He said you are always going to deal with personalities and people's emotions and he doesn't know if there is a way you can codify behavior. He said he agrees, everyone should be professional and you don't have to agree with everything and if you don't you just debate it, vote on it and go on down the road. He said he doesn't know if there is actually anything we can actually put in here that would make us conform to that.

Ewing-Holmstrom said sure there is, if that happens again, the people who does it, is taken out of the meeting.

Bass said he doesn't think anyone would disagree with that; you could write on there no fighting in executive session, but that don't mean it's not going to happen.

Ewing-Holmstrom said that's what teachers have in their classrooms; we have to do the same thing. She said if we can't come up with some rules of decorum of what's acceptable and not acceptable, at least we need to have a Sgt. At Arms in that room. She said she knows no one wants to discuss it; it makes Council members uncomfortable, no one wants to air our dirty laundry, but that's what's going on behind that door.

Devine said he wanted to make one more comment: if nobody wants a Sgt. At Arms or anything like that to protect somebody in the future if anything did happen, we should record everything that goes on in there. He said he has went through that legal battle with Vincent before and he says the problem if we record everything that goes on in there, if anything ever happened, it could be brought to court. He said he doesn't have a problem with that because you shouldn't be doing anything to violate the law in there. He said we have a stenographer who takes some notes, not detailed notes, but some notes and it puts that person in a major problem because if she's every subpoenaed to court, is she going to perjure herself? He said we are really putting a great responsibility on her and if we record everything that happens in there and if it does happens, you have legal grounds to do something about it, because he is not going to stand to be threatened again.

Shanklin said he is sorry he threatened him.

Devine said Shanklin didn't threaten him.

Shanklin said all he wants is the crowd to know he didn't do that.

Devine told Shanklin he did not threaten him.

Bass said he thought we asked that before and made it public record so we couldn't record it.

Devine said it could be locked away. He said Vincent told him it does not become public record.

Vincent said Devine is correct. It is advisable not to do a verbatim recording of an executive session, it's not against any rules, but that recording of an executive session is a private, executive document, just like the summary minutes are and are not subject to the Open Records Act.

Ewing-Holmstrom said she can see where Devine is going with that, but that will not necessary deter behavior.

Devine said it may not but he promises it will be there for somebody's protection if it ever does happen.

Ewing-Holmstrom said in the future, she agrees, we should do that as well as have a Sgt. At Arms.

Shanklin suggested Council take the hand out home and read it, then think about how we conduct our City business, you will see a great number of errors we haven't adhered to. He said he was on the Council when Wayne Gilley was Mayor and it was a free-for-all, in a way, but he let them debate it if they wanted to. He said he carried the same thing through and Mayor Marley, we had some heated debates and was not with this book, not with the Rules and Procedures we have in front of us. He said some of us pass, you don't get to pass, you vote yes, no or abstain; you don't get to give a 30 minute dissertation why you will or will not vote for something.

Ewing-Holmstrom said that's irrelevant. She said we want to talk about the subject at hand and we need to make a

decision if we are going to do a Sgt. At Arms or not and we need to decide who that person is going to be. She said then we take our packets home, read over it and decide what rules we are going to follow in executive session. She asked Vincent who this person could be.

Vincent said he is not going to make a recommendation.

Ewing-Holmstrom asked who it could be. She said everyone is so afraid. Can the Chief of Police be our Sgt. At Arms?

Devine asked Vincent if it could be any Council member or the Chief of Police.

Vincent said sure.

Devine asked Ewing-Holmstrom if that answered her question.

Ewing-Holmstrom said yes, he couldn't answer me but he'd answer you.

Bass said he'd be happy to be Sgt. At Arms if Council wants one. He said he doesn't have a problem with it. He said Haywood did a great job solving the problem we had in there and if he wants to be it, that would be fine with him too. He said he was never nervous about what was going on, but, of course, I've been in all that stuff before.

Ewing-Holmstrom said she is not used to that and if that is what this executive session is all about, she doesn't want to be a part of it. She said after talking with other City Council members in other Cities, that stuff doesn't happen in the real world, we're the ones that have a free-for-all thing going and that's not acceptable in any kind of level of government.

MOTION by Devine, SECOND by Shanklin, to appoint Council Member Randy Bass as Sergeant At Arms for the Lawton City Council meetings, to include Executive Sessions.

Ewing-Holmstrom asked what is Bass's role as Sgt. At Arms and what infraction has to incur for him to step in and physically remove somebody from a meeting. She said we need to decide what rules; are we going to bring this back in 2 weeks, is it going to be Council's suggestion to the City Attorney and they draft it? How is this going to work? She said nobody wants to do anything about it.

Warren said it is ridiculous. He asked Ewing-Holmstrom to tell him what she doesn't want to happen.

Ewing-Holmstrom said she doesn't want what happened Thursday night to ever happen again.

Warren asked her how she is going to legislate that.

Ewing-Holmstrom said we have a Sgt. At Arms and when someone is on the verge of attacking another person.

Warren asked when are you at the verge of attacking another person.

Ewing-Holmstrom told Warren if he wants to pretend like it never happened, he could do that. She said she is not going to debate what happened Thursday night. The people sitting in this audience heard what happened and it's supposed to be a soundproof room.

Bass suggested Ewing-Holmstrom write down what she wants to happen for the Sgt. At Arms and we will bring it back to Council.

Ewing-Holmstrom said she doesn't want to be the only one; everybody needs to be a part of this.

Bass said yes, everybody write down what they want.

Ewing-Holmstrom said everybody is just so used to it happening, no one cares about change. She said she knows Bass wants it changed, Devine wants it changed, and if Patton had been there and witnessed it, it would have been his first time and he would have been in shock just like me.

Powell said in the meantime, we would vote on the motion; that Mr. Bass be the Sgt. At Arms and we do have a second to that.

VOTE WAS THEN HELD ON THE MOTION

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

Warren asked what we would do if Bass was involved.

Devine said really a Sgt. At Arms is not going to do us a lot of good, because the Mayor is the one who handles the meeting and he s the one who is supposed to be totally in charge and it s his decision if anyone is to be removed from the meeting.

Vincent asked Council to read what he passed out from Robert s Rules of Order. He said the Mayor can call a person out of order or a member of the Council can, but the Council directs if someone is removed or not, in open session.

Powell said we have six aye votes and one abstention on this.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Col. Herring said the current Commander of the US Marine Corp. attachment at Ft. Sill, Col. Kelley, will relinquish command to Col. Pace in a Change of Leadership Ceremony on Friday, September 5, 2003 at 9:00 a.m.

Haywood complimented Dave Tracey on such a good job he is doing and doesn t think we have ever had anyone quite like him and thanked him for all the work he has done. He said school is on and police are writing tickets and asked everyone to please drive carefully.

Shanklin thanked Tracey also and said every time he has gone out there to inquire about a different alley, etc., they were right on top of it and the good job done on G Avenue and he has had several people comment on it and he appreciates his hard work.

Endicott said Mitchell will be back on September 2nd and the new Assistant City Manger, will start on September 2nd. Endicott said he will be out of town on Thursday and Friday and Mitchell had asked him to appoint Tim Golden as Acting City Manager for those two days.

Devine said this is Ms. Fanning s last Council meeting as Acting City Clerk and wanted everyone to be aware of that now we have 90 days to make some kind of decision because 90 days have past and he hasn t heard anything mentioned on this. He said Melody will start September 8th as Acting City Clerk for her 90 days. He told Council they need to get together and not wait until the last minute.

Endicott reported that Stacia Naquin from Channel 7, will start work with the City of Lawton on September 3rd working in the Arts & Humanities area.

Powell wished everybody a safe and happy Labor Day, school will be out and people will be out at the lakes, etc. He thanked our military troops and what they continue to do; we have lost more service personnel since the war than we did during the action and keep prayers going for those still over there and their safe return home.

There being no further business to consider, the meeting adjourned at 8:15 p.m. upon motion, second and roll call vote.