



on an average day, in the winter months, when we have just two workers, the driver and the pick up, he will pick up an average of 20 tons per day.

Powell thanked Todd for being a great employee for the Lawton-Fort Sill community and presented him with a plaque from T & S Printing, a certificate of honor from the Office of the Mayor, two days off, and \$50 in script money.

Todd thanked everyone and said he likes his work.

Powell announced the item regarding residential demolition has been pulled and not on the agenda. He said Alltizer has tried to notify everyone concerned, but if she has been unsuccessful, he didn't want someone sitting here all evening anticipating the item to be brought up.

#### AUDIENCE PARTICIPATION:

Mike Cornish, of Cornish Properties, said he wanted to address Council about a sewerline situation.

Powell said it was his understanding a letter was written to Cornish's attorney today.

Cornish said the sewerline in question takes care of 30 businesses running parallel to Lee Blvd., serving 9 of his businesses. He wanted Council to take a hard look at this and determine the ownership. He said Mr. Strickland was here and owns one of the businesses and Mrs. Yarborough owns a home that is on this sewerline and they can't get any help.

Powell said he first became aware of this about a year ago when a person in this area asked about a sewerline and he asked City Officials to check on this at that time. They researched it and the City does not own a sewerline right there. Cornish asked if a determination had been made that the City does not own it. Powell said it came up again after that, when Mrs. Yarborough, east of the Sonic Drive-In, called and said her line had collapsed. At that time he talked with City Officials about this and there has been meetings with the City Attorney, Mr. Ihler, and Mr. Buckley. Powell said he asked Mitchell today what had been decided at this present time and to his (Powell's) knowledge, nothing has been done.

Vincent said a letter from Mr. Butler, the attorney representing Cornish, has been received and we will be responding to that letter. Cornish asked if the letter would include a determination of ownership. Vincent said yes.

Powell said all information given him has been given to City Officials and he sympathizes with these folks and certainly hopes something can be done in that area.

Cornish said he hopes this could be worked out with Council in a professional attitude, since you do collect sewer fees, rehab fees and all the necessary fees to give them sewer service. He said hopefully Council will take this into consideration.

Devine said he is well aware of this particular sewerline and it has been there for years and years, long before a lot of us came along. He said we have reached out and helped people in the past and under these circumstances, this is basically the same thing we had with Scott's Flowers and Gene Burk's Glass; we did a cost sharing on his property sewerline, when he had to take the sewerline out from under his building and go around it. He said he does not understand why there isn't some way we could work with them. He said he agrees with Cornish because he has sat there for years and all those people on that line have paid for the use of sewer service and this is something this Council really needs to look at. Devine said maybe we could enter into a cost sharing project on this. He said they have paid for service there for years and now the line is bad and we don't want anything to do with it, but we didn't hesitate all those years to reach out and take that money. Powell stated he concurs with what Devine is saying and staff is working on this and hopefully, in the near future, will come up with something.

#### AUDIENCE PARTICIPATION CLOSED AT THIS TIME

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CONSENT AGENDA : Separate consideration was requested for Items #1, 7, 11, 13, and 18.

MOTION by Shanklin, SECOND by Hanna, to approve the Consent Agenda items as recommended with the exception of Items #1, 7, 11, 13 and 18. AYE: Hanna, Devine, Shanklin, Patton, Haywood, Warren, Bass. NAY: Ewing-Holmstrom. MOTION CARRIED.

1. Consider the following damage claims recommended for denial: Southwestern Bell, Nicholas and Irmgard Miller, and Tom Cole.

Shanklin said 1407 Bell is the residence of Tom Cole and his mother. He said nobody saw the sanitation truck hit the fence, but twelve to fifteen years ago, we made arrangements with the Cole family we would cut that corner off

so our sanitation truck to negotiate that turn. He said sometime in November it was hit and asked Cole to come forward to tell Council about it.

Tom Cole said he was here on behalf of his mother, Ruby Sidel, who is physically unable to attend. He said over the last four years, he has had to call his Councilman out to the house; the trash truck has worn a rut up against his easement, which runs 10-12 inches. He said over the years, Shanklin has had the City come out and regrade it back down to zero and it still gets rebuffed back 8-10 inches. A few months ago, the trash truck wore the rut up to a zero tolerance, back where his easement used to be, to the post that holds the fence, and they hit the post. Cole said he did not see that happen, however, he submitted all the evidence to the City and they got evidence from the Sanitation Department, who said the bumper on the truck is 24 inches and that dent is just 12 inches from the ground. When they made that measurement, they did not take into consideration the 8-10 inch rut right next to it. He said that would make his fence 32 inches and he measured his fence last night and it is 44 inches. He passed pictures out for Council to look at. Cole said the City told him he had to have several bids, so he called five carpenters out of the paper, two came out. He said one gave a bid of \$270, which he couldn't get at for 2 1/2 months, one gave him a bid of \$370 and could get at it that weekend. He said he had to have it done immediately because his mother has a small dog and she can't get out of bed and he works all day, so he had the work done at \$370.

Vincent said they did go out and measure from the bottom of the rut to the damaged spot on the fence and he and Karen Giddings measured the truck and the amount of protrusion from the truck and that is how they arrived at the recommendation that we probably didn't cause the damage.

Bass asked Vincent if the truck made the rut.

Vincent said yes. He said from the point of impact on the truck that sticks out 2 inches, the distance from the bottom of the rut to that point of impact on the fence post, the truck has a different height.

MOTION by Shanklin, SECOND by Hanna, to approve the damage claim of Tom Cole in the amount of \$370. AYE: Devine, Shanklin, Haywood, Warren, Bass, Hanna. NAY: Ewing-Holmstrom, Patton. MOTION CARRIED.

Discussion on agenda item #1 continued.

Powell said Nicholas Miller, 1803 Crosby Park, has requested to speak to the Council.

Nicholas Miller said he lives and owns 1803 Crosby Park Circle and has, on numerous occasions, had his plumber out to reroute his line out to the City line. He said the last time they tore it up and found out what the problem was, it cost him \$1,175. The saddle utilized on the City line, only the City could have installed because plumbers are not authorized to. He said the line was running uphill and he is at the end of the line. The City came out, the inspector took pictures and had his crew change the service line, loaded down 10 inches, but yet he still had to pay his plumber to do the repairs. Miller said he appreciated the crew coming out within one hour, but that doesn't help him pay the plumber. He said that is why he came before Council, to get reimbursement for the plumber.

Warren asked if the City actually did the repairs on this saddle. Vincent said at the time, once they dug it up, we decided to go ahead, since the saddle had been there for about 30 years, to replace that segment of sewer pipe.

We replaced the segment and put a new saddle on the new segment of pipe. He said the problem we have is the allegation raised by Miller; did the City, at the time of the original installation, based on records found, was over 5 years, but less than 32 years ago, fail to inspect it properly? He said under the Oklahoma Governmental Tort Claims Act, failure to inspect properly is an automatic release of liability; we are not liable for faulty inspections. Vincent said they could find no way to pay this claim.

Miller asked why the citizens have to wait so long for inspectors to come out and get a final approval. He said he had a gas line replaced at the same residence, at his own expense. He had four plumbers there who had to wait three hours for an inspection before they could close it up. So, the inspector is responsible.

Warren asked if he has the City come out to inspect a gas line he installed at his house, the inspector approves it, two months later, his house burns down, and the investigation shows it was installed improperly, isn't the City liable?

Vincent said by State Law, under Section 155 Title 51, the Oklahoma Tort Claim's Act, which is quoted at the top of page 11, "inspection powers and functions, including failure to make an inspection, review or approval, making an inadequate or negligent inspection, review or approval of any property, real or personal, to determine whether a property complies with or violates any law or contains hazards to health or safety or fails to conform to recognized standards". He said if that is the allegation, State says we are not responsible.

Warren said we wonder why nobody wants to get a permit and have their house inspected.

MOTION by Warren, SECOND by Devine, to adopt Res. No. 04-01 approving damage claim of Nicholas and Irmgard Miller in the amount of \$1,125 and deny the remaining claims in Item #1. AYE: Patton, Haywood, Warren, Bass, Hanna, Devine. NAY: Ewing-Holmstrom, Shanklin. MOTION CARRIED.

2. Consider the following damage claim recommended for approval and consider passage of the resolution authorizing the City Attorney to file a friendly suit for this claim which is over \$400.00: Julius and Nadine Hill. Action: approved.
3. Consider approving contracts for 'School of the Arts,' Spring 2004 Semester for Scott Smith (\$540.00), Sherri Denning (\$540.00), Shana Shriver (\$270.00), Melissa Butler (\$135.00), and Lori Franz (\$135.00) faculty members for the project. Total amount for stipends is \$1,620.00. Action: approved.
4. Consider acknowledging the completion of the Storm Water Mitigation Master Plan Project #2002-8 as prepared by Carter & Burgess, Inc. and authorizing staff to submit the updated FEMA Flood Insurance Rate Maps (FIRMS) to FEMA for their review and approval. Action: approved.
5. Consider authorizing the Mayor to execute the Annual Certification of Army Material Status for the M101A1 Howitzer provided by the United States Army to the City of Lawton for display. Action: approved.
6. Consider approval of the Retainer Agreement for Professional Services with Darrell Dawkins, to provide professional investigative services to the City of Lawton, and authorize the Mayor and City Clerk to execute the Agreement. Action: approved.
7. Consider releasing two temporary easements filed in the Comanche County Clerk's Office on June 23, 1975, Book 903, Page 647, and Book 903, Page 649, to Gilbert Gibson, which is located in Section 28, Township 2 North, Range 11 West, and authorize the Mayor and City Clerk to execute the releases.

Powell said he pulled this item to clarify a question he had. He said it is his understanding the temporary easement was given in 1975 and hopefully we are now doing business a little different. Vincent said yes and we are doing two things different: 1) On temporary construction easements, we are putting an automatic release into the document, so when the construction is completed, the easement is automatically released; and 2) it cost money to file the temporary easements at the Court House and unless there is a problem, we are not filing them, so they don't become of record anyway, unless there is a problem, but then they are automatically released.

Powell said he received a call on this and spoke with Vincent and it has always been protocol that Council act on these types of things and he felt more comfortable with Council taking action on this. He said his main concern was the way we are doing business now and once that project is completed, that easement goes away. Powell asked Vincent if this was correct. Vincent said yes, but there are still several old ones out there like this.

MOTION by Patton, SECOND by Warren, to release two temporary easements filed in the Comanche County Clerk's Office on June 23, 1975, Book 903, Page 647, and Book 903, Page 649, to Gilbert Gibson, which is located in Section 28, Township 2 North, Range 11 West, and authorize the Mayor and City Clerk to execute the releases. AYE: Shanklin, Patton, Haywood, Warren, Bass, Hanna, Devine, Ewing-Holmstrom. NAY: None. MOTION CARRIED.

8. Consider approving a second amendment to the Agreement between the City of Lawton and Lawton-Fort-Sill Habitat for Humanity, Inc., dated September 24, 2002, and amended December 10, 2002 and authorize the Mayor and City Clerk to execute the document. Action: approved.
9. Consider approving the construction plat for Wyatt Acres Addition, Part 14, subject to a condition. Action: approved.
10. Consider adopting a resolution approving modification and revision to the City's existing pay plan, modifying the personnel schedule of the FY 2003-2004 budget, and declaring an effective date. Action: approved.
11. Consider approving an ordinance related to a personnel regulation that amends Section 17-1-4-137 in Chapter 17, Lawton City Code, 1995, providing for the completion of introductory periods for General Employees and establishing severability.

Vincent said this is an ordinance that was inadvertently placed on the consent agenda and cannot be dealt with that way, so we need to deal with it like a regular ordinance business item.

Tim Golden, Human Resources Director, said this proposed ordinance revision deals with introductory periods for general employees. It has two primary purposes; 1) to require an employee who is in an introductory or six month probationary status, to complete that introductory status before applying for a different job; and 2) the Charter states that all classified employees are on a probationary or introductory period for six months. The Code, as currently written, states the length for department directors is one year, which conflicts with the Charter. He said

we are merely trying to make it compliant. Golden said it is their recommendation Council approves the ordinance revision.

Bass wanted to know why the department directors were treated any differently than general employees. Golden said he could not give the history of why they chose to make it twelve months; his guess would be because of the importance of the position, that the standard would be higher and would take more time to assess their performance. He said the Charter does not allow for the provision. Bass asked if department directors were taken out of it and not on an introductory period. Vincent said the way it is currently written is to make all new hires, and promoted employees, serve a six month introductory period, which would include department directors.

Warren said everybody would be equal. Vincent said yes. Bass said if department directors will be as new hires also, that could get a little confusing because most of them are department directors whenever they are hired.

Vincent said some are promoted from within the City to a department director position, but for example, Golden was hired from outside, as a department director and this will give either one a six month period.

Vincent read the ordinance title prior to vote.

MOTION by Haywood, SECOND by Warren, to adopt Ord. No. 04-01 related to a personnel regulation that amends Section 17-1-4-137 in Chapter 17, Lawton City Code, 1995, providing for the completion of introductory periods for General Employees and establishing severability. AYE: Patton, Haywood, Warren, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin. NAY: None. MOTION CARRIED.

(Title Only)

**Ordinance No. 04-01**

An ordinance related to Personnel Regulations that amends Section 17-1-4-137 in Chapter 17, Lawton City Code, 1995, providing for the completion of introductory periods for general employees, and establishing severability.

12. Consider approving an Agreement for the use of a water tanker truck between the City of Lawton and the Board of Education of Independent School District No. 8, and authorize the Mayor and City Clerk to execute the document. Action: approved.

13. Consider accepting the bid from Allison Excavation & Backhoe Service for demolition of 631 SW D Avenue.

Shanklin said 631 SW D Avenue belongs to the City of Lawton. He said it states in the background we purchased this in 1998 and he did not vote for it. If the only problem with it is the roof, that's a lot of building to tear down, as much as we need space or storage, to not fix it up. He said he has a problem with the low bid being \$6,900 and the City bid \$22,000 to do the same thing. He said this makes him wonder and worry about doing our sewer rehab in house; could we have saved money by doing it through the private sector? He said just to tear something down when we have been using it, he believes we could do something with it. He asked Mitchell if there was anything we could use this building for. Mitchell passed around some pictures for Council to look at and said he would have pulled this off the agenda, had Shanklin not pulled it. He said in the pictures you can see the extensive damage.

He said that would be up to Council to decide if we could use it for future storage, but he thinks it would cost us around \$100,000, maybe more, to get it back into a useable condition. He said it has lots of problems.

Ewing-Holmstrom asked why the Fire Department couldn't use it as training and burn it down. Devine said it would burn the Fire Department down too since it is right next door. Warren said its attached to the Central Fire Station. Mitchell said one of the ideas was to use it for the Fire Department, but he thinks it has a lot of mold problems.

Warren asked how much we paid for this building. Shanklin said \$150,000. Warren said that is a whole lot of money and we need to start taking care of our property better.

Devine said we really need to consider how many buildings this City owns. He asked why we don't have our own roofing department within the City. He asked Mitchell how many structures the City owns. Mitchell said he did not know, but we have a number of them.

Devine said this is something we really need to consider. If this building had been repaired when the damage occurred in 1998, the structure would still be in good shape, but it has sat all this time and over a period of time, has become dilapidated. He said we have the constant complaint we are tearing down our historical structures and this is right in the middle of our downtown area and we are going to tear it down. He asked why somebody hasn't raised a complaint against that.

Bass said when we tried to put the bus system over there, we could not tear this building down because it was a historical building and now, all of a sudden, it's not historical anymore and we're going to get it torn down for \$7,000. Mitchell asked Bigham if he knew anything about the historical significance. Bigham said he doesn't have any information on that. Mitchell said we could table this for two weeks and check on that, but he didn't believe there was any historical information on this building.

MOTION by Shanklin, SECOND by Bass, to accept the bid from Allison Excavation & Backhoe Service in the amount of \$6,919, for the demolition of 631 SW D Avenue. AYE: Haywood, Warren, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin, Patton. NAY: None. MOTION CARRIED.

14. Consider approving the following contract extensions: Police Footwear (CL02-030) with Ausley's Law Enforcement - Police; Glass Beads (CL02-038) with Swarco Reflex, Inc. - Streets. Action: approved.
15. Consider rejecting bids for Aqueous Ammonia (CL04-032). Action: approved.
16. Consider awarding contract for Sodium Bisulfite (CL04-023) to Brenntag Southwest, Inc. Action: approved.
17. Consider awarding contract for Removal and/or Demolition at 701 NW 31<sup>st</sup> Street (CL04-037). Action: approved.
18. Consider awarding contract for Sulfuric Acid (CL04-034) to Brenntag Southwest Inc.

Shanklin asked about the need for 100,000 gallons of Sulfuric Acid. Ihler said the Sulfuric Acid is used as a ph adjustment, to stop corrosion of the material in the tanks and in the whole process of the plant. Shanklin asked if it was fed continuously. Ihler said yes it would be fed continuously. Shanklin asked where this would be stored. Ihler said it would be stored in the new chemical feed building. It will be stored in tanks and there will be a line and a small pump so it will be fed continuously. Shanklin asked if we have been doing this for a long time. Ihler said no, this is part of the new process of the new plant. He said we didn't use Sulfuric Acid to adjust ph in the old plant.

MOTION by Shanklin, SECOND by Warren, to approve awarding contract for Sulfuric Acid (CL04-034) to Brenntag Southwest Inc. AYE: Warren, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

19. Consider awarding contract for Water Pipe and Fittings (CL04-035) to Water Products of Oklahoma, Inc. Action: approved.
20. Consider awarding contract for Liquid Aluminum Sulfate (CL04-033) to Industrial Compounding, Inc. Action: approved.
21. Consider awarding contract for Degreaser (CL04-036) to Suncoast Research Labs, Inc. Action: approved.
22. Consider awarding contract for Algaecide (CL04-031) to Mid America Hydro Tech. Action: approved.
23. Consider approval of appointments to boards, commissions and trusts. Action: approved.
24. Consider approval of the minutes of December 8, 2003, Special Meeting and December 16, 2003 Regular Meeting. Action: approved.
25. Consider approval of payroll for the period of December 22, 2003 to January 4, 2004. Action: approved.

Powell said staff asked for and Council requested an Investment Committee be established; that committee has been named and he hoped everyone got a copy of the proposed appointments to the Investment Committee. He said also the Preservation Committee has been established and named, which consists of an architect, engineer, realtor, private citizens, etc. He said he wanted Council to know those two are in place and will be appointed.

Warren had one more inquiry about the building on D Avenue. Council had, at some point, voted to be self-insured and we continually look at it; at anytime after the storm, was that building brought to Council to ask if they wanted it repaired or not? His reason for the question is, that is a lot of money for us to have just left on the table and tear down. If we are going to vote to be self-insured, we, as a Council, need to have it drummed into our heads, what it cost us to do that. He said the next time we look at bids, we're going to all forget this just cost us \$140,000.

Mitchell said our current deductible is \$35,000. Warren asked if there was some way to make sure each decision comes to Council, so we are aware of things we are not fixing, because we can't afford to or we've decided not to.

Mitchell said that is a good question and he can't explain why it wasn't submitted to an insurance agent or company at the time of the storm.

Shanklin said to get the minutes and see who voted for it, 7 to 1, and why we had to have it and what were we going to use it for. Warren said we were going to use it for the Fire Department, but the fact we bought it is not in question, he is wondering why we make a decision on being self-insured so easily. How many other properties are out there we haven't repaired because we were going to have to foot the bill? He said he wants Council to just be aware of each one of those to use in making the decision about being self-insured.

Vincent said this was submitted for an insurance claim, but there were several buildings owned by the City damaged, including the Owens Multi-Purpose Center. We had a \$10,000 deductible at that time, but since this building was not occupied, Council didn't have enough money to do all the repairs. At the same time, we were looking at this building for a \$280,000 remodeling project to put offices in, but didn't have money for that and it just fell by the wayside.

Devine said that did come before this Council to be remodeled and it was not feasible to remodel it and that's the reason it just sat there and was never touched. Haywood said if he remembered, we were going to put Housing in there. Vincent said yes, but the Federal Government wouldn't let us do it. Warren said he remembered the remodeling but not attaching it to a storm damage. Vincent said no, the remodeling started before and while we were considering it, the storm happened.

Shahan said one thing that will happen in the budget this year, which will be beneficial to us, is the Building Maintenance Division is only allocated \$20,000 for all buildings owned by the City of Lawton, for maintenance purposes, so in the budget for Council's review this year, each building existing under their guidance, will have an itemized amount of dollars attached to it for what repairs are needed. He said you will actually see what the maintenance requirement is, if you had the dollars to fix everything, at the annual budget review. Shanklin asked how many buildings we have. Shahan said we have about 37, functioning, with utilities, but there are over 100 that are storage related.

Ewing-Holmstrom asked why the City's buildings were under Parks and Recreation. Mitchell said at one point, it was decided by either the Manager or Council, during budget, that's where the responsibility would be for building maintenance. He said he couldn't answer that question because he doesn't have enough history on it. Shahan said he thought the reason was because maintenance is a daily function and from a Public Works standpoint, they are looking at the bigger picture of operations and management of facilities and because of the closeness of Parks and Grounds and daily functions of fixing a door knob, a light fixture or whatever it might be, it was easier for the Parks and Recreation Director to provide guidance and direction.

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## OLD BUSINESS

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

Vincent said at the last meeting Council directed staff to provide an aerial photo, showing the outline of where this property is, which is what Council has in front of them now, and the other thing Council asked us to do was to visit with the Brutons and they have hired an attorney, Mr. Garrett, who was at the last meeting, to discuss the possibility and duration of a temporary water tap contract. He said we have had some discussions, but these discussions have gone back and forth as recently as noon today and it is Vincent's understanding that Mr. Garrett, who will be making a presentation to Council tonight, is going to request this Council consider a permanent tap. If we do go with the temporary tap, we would like to talk in the area of 18 months, which would be the time duration of the two major city projects Mr. Bruton has, plus, in case of a continuance, the ability to renew that contract for six months. Vincent said another area of contention we have been discussing with them is the condition of 38<sup>th</sup> Street and the amount of heavy traffic this plant is going to cause in the deterioration of the road.

Garrett said with the costs involved in this project; purchasing the land, the cost of moving a \$200,000 plant, and the cost of setting it up, and compliance with all building codes, which they are prepared to do, it would be unreasonable to require the Brutons to spend that much money on a temporary easement, when the property itself is basically owned more than 50% by Mr. Cross. There was a question brought up last week about the restrictions, the easement and building and that will be changed so it's commercial; it's already commercial in Blocks 1 and 2 and will be changed at the time of purchase, so it will all be commercial in that area. Garrett said there are houses in this area they run welding shops out of, the area is mostly vacant, it was left over when Floyd Freeman developed this. He said the City probably never took it in as a part of the City because of the cost to maintain it because of being in such bad repair. He said this plant will be installed and built to code, there will be asphalt, so there won't be a dust problem and Mr. Bruton just advised him, to be on the safe side, he is going to spend \$25,000 on a cylo, to prevent the escape of dust. Because of the amount of investment, they are asking for a permanent tap, as long as Bruton complies with all the code requirements, which they will.

Bruce McDaniel, who resides in the Rolling Hills Subdivision, opposite of the property in question, said this is a residential area and 38<sup>th</sup> Street services this area which is primarily a residential street; it is not built to sustain the traffic from very heavy concrete trucks. He said we will also be mixing these trucks in with school buses and residential traffic. They are also concerned that 38<sup>th</sup> Street is going to be torn up in the area they use, mainly south of Lee Blvd. to Bishop Road and possibly more damage done to Bishop Road, which is already suffering from minimal truck traffic now. He said he and his neighbors believe the water tap should be denied and the development of this property in this manner be discouraged.

JJ Young said he owns 80 acres directly north and this is residential property. He challenged anybody to go out

there and take a good look; it's residential on three sides. He said his home is on the north side, the trailer parks and other housing additions are on the west side of 38<sup>th</sup> and there's a housing addition to the south side of this property. The area of this industrial proposal is a very thin strip of land, he didn't realize was partly commercial, and Garrett said it would become commercial after he gets the tap. Young said he challenges that, it is currently residential, not commercial, and he and his neighbors will fight this to maintain this as residential. It is essentially putting a concrete plant in the middle of housing additions on three sides. He asked Council to table this and if the Bruton Company can get this area zoned commercial by due process and they can't stop it, that's well and good. He said they will fight to keep this zoned residential so no commercial properties will be put in there. It is a concrete plant and the wind, predominately from the south, will blow directly upon his property, if not his property, on the newly developed skate board park from McMahan Foundation and the new construction of the inline skate park being done now. The dust and all the noise pollution will come directly upon the brand new, hundreds of thousands of dollars of projects being done right now by McMahan Foundation and the City. He asks this be tabled until this property can be zoned totally residential or totally commercial.

Haywood asked Young why he had not contacted him about this. Young said he wasn't aware of this until he received a call from a neighbor about two hours ago. He apologized for not being more informed, but he's here representing himself and his neighbors. He said if Council approves the tap, they are, in fact, approving the concrete plant.

Garrett asked Council to look at the aerial photos furnished them; Dr. Young's home is 1500 to 2000 feet away and there's a hill in between and in this particular case, the legalities are such that the ownership of the land, over 50% of the lots are owned by Mr. Cross, and when this was originally platted by Mr. Freeman, if someone owns more than 50%, the plat restrictions can't be removed. In this particular case, the change to commercial will not involve any lawsuits or motions, it's just a requirement Mr. Cross filed, an amendment to the plat restrictions, which would make the entire area commercial. There are a few residents there, but most of the residences maintain some type of a business operation and some of them look like junk yards.

Bass asked Garrett if he would have to go to the County and get this changed over to commercial property before they start building. Garrett said no, they do not have to go to the County.

Warren said if we give them a permanent tap, we are looking at problems with 38<sup>th</sup> Street, which was not built to carry that kind of traffic and we have residential areas abutting it. He said he is having a hard time considering commercial when this is an industry. He said to him, industrial means concrete plants and things of that nature and that's why we have an Industrial Park; we have built the roads heavier and several other reasons. He said we also give temporary permits to put in concrete plants and there are 2 to 4 in operation right now, in the City of Lawton. The reason we want to do that is we want to keep the plant as close to their project as we can so they don't utilize all the roads in Lawton in order to get to and from their site. Warren said if we allow this to happen, all the available property in that corner is going to turn into industry and we will have an Industrial Park that doesn't have the proper type roads and doesn't have water and sewer to support that kind of industry.

Ewing-Holmstrom asked if there wasn't something similar to this plant, or the exact same thing, several years ago. Powell said about 20-25 years ago. Ewing-Holmstrom said in this exact same location, right? Powell said Mr. Freeman had an asphalt plant there.

Patton said it seems like this is a zoning issue, which is really outside Council's jurisdiction. He said this is not in the city limits and we really don't have any type of power to say this shall be commercial or residential. He said he understands the residents concerns, but all we are doing is providing water.

MOTION by Patton, SECOND by Ewing-Holmstrom, to approve a permanent tap.

Vincent asked if they wanted to put something in the outside water sales contract concerning maintenance of 38<sup>th</sup> Street, as part of the motion. Patton asked if this was something we could negotiate on. Vincent said yes and we can bring it back to Council. Patton said that would be fine.

Bass asked Bigham if there were any plans in the future for bringing this into the city limits. Bigham said there has been no recent discussion on annexing this, under the statutory provisions, the Council could annex this without the consent of the property owners, providing that a service plan is put in place to provide municipal utilities and there has been no discussion to put this on the agenda to do that.

Shanklin asked about sales tax and if this puts them at an advantage over sales tax/use tax. Vincent said the point of sale is what determines the sales tax; if the person drives the truck out and unloads the concrete and submits the invoice at the point of sale, inside the City of Lawton, such as a house construction, then that delivery would require a sales tax be paid to the City. If they went out to the plant and bought the concrete, they would not be paying City sales tax.

Shanklin said we made Shilling Electric do something, they have to pay sales tax. Vincent said Shilling Electric has the same issues, but 99% of Shilling's jobs are done in the City, and he collects the money at that point and time.

Devine said if we grant them a temporary tap, that will restrict them for any outside sales, with the exception of the project they're going to work on. Vincent said that would be up to the contractor. The Council's direction could be to limit them to the two projects they have and we could certainly put that in the proposed temporary sales contract. Devine said he knows the temporary permit we have with another batch plant does not allow individual sales, that was just on the projects here. Mitchell said he thought so.

Warren asked if direction couldn't be given that no on-site sales be allowed. Vincent said they could put that into the contract.

Shanklin asked about outside sales. Devine said there shouldn't be any outside sales, if you are going to give them a temporary permit to do a contract on a project, we have to do things equal. We did that to another contractor that has a batch plant here; he couldn't do any outside sales, he had to stay within the project, on the temporary permit given him. This is on the corner of 82<sup>nd</sup> and Gore. If we do this and allow outside sales other than the contract he is wanting this for, we are going to have to go back and rewrite the contract for the other plant. Vincent said the plant at 82<sup>nd</sup> and Gore was just a temporary use permit through the Planning Department and didn't include outside water sales because they are inside the city limits. Devine said he understood that, but they are on a temporary water line because they are using a fire plug meter to buy temporary water and that is exactly what we are about to do here, with the exception we are giving a tap onto the main, it's the same difference. Vincent said if Council directs, he will put into the temporary sales contract, that they be limited to the 34<sup>th</sup> Street Drainage Project and the 38<sup>th</sup> St. Street Project. Devine said that would be up to the Council, but he thinks something needs to be done if they are going to do that, because if not, we need to back up and redo the other contract. Powell said we are not going to bypass that, it will be cleared up before we finish this item.

Haywood asked Ihler about the roads; the trucks traveling on 34<sup>th</sup> Street; what would happen if they do tear up those roads? Ihler said those roads will get torn up and the City will be responsible for the maintenance because they are City streets. Haywood asked if we will have to keep them up. Ihler said we will do our best, yes. We can only do as far as the dollars we have.

Garrett said he has no knowledge of what Vincent and Devine are talking about on 38<sup>th</sup>, but we are talking about a large investment here and people don't come and buy a pickup load of concrete; all the sales made will be outside of the County or within the County and he suggests the restriction Devine suggested, is not a valid restriction: to say you can put a batch plant there, but you can't sell to people building a new home, when that's a sale. In addition to that, the revenue the City receives from an outside sale, will probably amount, from this plant alone, to be about \$3,000 a month, the City doesn't have now. He said if you handcuff them too much, they can't do it. He said if you handcuff Mr. Bruton's business to do just one thing, it doesn't work. He asked, as far as the City streets are concerned, are we now going to have an ordinance that anyone having heavy equipment has to pay for driving that equipment down a road? He said he doesn't understand that either, but he agrees, Vincent and he had discussed that and it's possible to work something out.

Shanklin said we have been in that situation before in Medicine Park. We had to put up a bond in construction of the new filtration plant. Garrett asked if that was because of the road. Shanklin said we torn them up and we were responsible. He asked Ihler if we had to ever spend any money on that. Ihler said nothing yet.

Warren asked Bigham about the plant at 82<sup>nd</sup> and Gore; does their contract read they are only allowed to provide concrete for those projects or not allowed to sell on site? Bigham said he does not know of any specific contract we have with that particular company. He said that plant was set there as a temporary facility for the construction of 82<sup>nd</sup> Street, which is a common practice. The next understanding staff had was that glass plant was being used to build the S-curve on Rogers Lane and was a State contract. Bigham said he didn't know of any issues made with that. He said recently it has been brought to staff's attention that plant is no longer providing concrete services to any City or State contract and have been placed on notice that it should be removed.

Ewing-Holmstrom asked how can Council tell a business what they can or cannot do outside the City limits. She said she is missing that whole legal part. She is kind of with Garrett on that deal and asked how we can do that. Vincent said we don't have to sell them the water unless they meet the conditions for purchasing. He said, as an example, in our outside water sales contracts to the Rural Water Districts, they are not allowed to sell commercial. Ewing-Holmstrom said she sees Vincent's point, but the other thing is, six months ago we were so broke, we jacked up the water rates for every citizen in the City of Lawton and also the outside users and now we are sitting here talking about whether we should or should not sell water. She said this is a source of revenue and we are missing the boat on this, bad roads or not. She said what about Wal-Mart when they built their store on 67<sup>th</sup> Street, was there a condition they pay for a new road or are they helping? Vincent said they are helping. Devine said they agreed to do 67<sup>th</sup> Street. Ewing-Holmstrom said that was good then and maybe we should talk about that too. She said this is revenue and come six, or less months from now, when we are talking budget and there's no money, here's money sitting right in front of us.

Warren said he doesn't really look at it as a question of whether or not we are going to sell them water because, one way or another, we are going to figure out a way to do that. He thinks it's more about the ability for us to

control what happens to what is going to become the next part of Lawton.

Hanna asked if they were going to pay the same water rates required of the other outside people pay. Vincent said yes.

Warren said he didn't have a problem on the project deal. Bass asked Warren if his motion was for them to sell to whomever they wanted. Warren said they could sell to whoever they want to sell to during the 18 month period. Bass said he would second that as long as they could sell to whoever they want to.

SUBSTITUTE MOTION by Warren, SECOND by Bass, to approve a temporary tap for this property for 18 months with a 6 months extension, if necessary and negotiate maintenance of 38<sup>th</sup> Street to be placed into the contract and bring the agreement back for Council to consider. AYE: Hanna, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Bass. NAY: None. MOTION CARRIED.

Vincent said we would bring back a contract for Council's approval.

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

Vincent said at the December 16<sup>th</sup> Council meeting, the City Attorney's office presented a proposition that they were running out of money in their Professional Services account, primarily caused by the water litigations, labor issues involving the interest arbitrations, and the dilapidated buildings. He said the City Manager has come up with a plan he thinks is workable; to take it out of two primary accounts, which are City Council Contingency Activity and the City At Large Professional Services. Vincent said it is his understanding that the City Manager and Finance Director's plan is for the City Attorney's office to write requisitions out of those funds rather than transferring the money. Mitchell said this would be on an as-needed basis; as the money is used, we would transfer the money and give Council an update, monthly on where that money was going.

Devine said we talk about being short of money, then we find money, but we have the same tools in our Code Books to do the same identical thing, with the same end result as we can by filing them with the County and one-fourth the time element in doing something.

Vincent said the statutes and ordinances haven't changed, but what we have is a change in the case law, which was brought to our attention by Mr. Shanklin about a year and a half ago, that the courts are saying if we don't have the proper hearing before a non-biased party....

Devine said he understands that, but the point he is trying to make is: we took an individual in this town and Neighborhood Services continued to write him citations because the violations of not cleaning up structures and lots and not doing the same things we are taking to the County Court, and his fines was in excess of \$35,000 in our Municipal Court. He asked Vincent if this wasn't right. Vincent said he thinks it was more like \$15,000, but yes, Devine is right. Devine said that was negotiated down, originally it was \$35,000 and you ended up putting him in jail. Vincent said yes sir. Devine said all the structures were taken care of and you got part of that fine. Vincent said there was a \$50,000 expense and we had to appoint a receiver on a trailer park and we ended up in court on that with that same individual. Devine asked Vincent how much money did it cost us to do that. Vincent said a little over \$55,000, just on that one property. Devine said his point is, every time we file a case in County and go to County Court, once it's filed there, it's taken out of our hands. Vincent said yes, it becomes the discretion of the District Judge. Devine said if that County Judge wants to take that piece of property and set it aside, he can set it aside for six months, a year, or whenever, indefinitely and it's totally out of our hands. Vincent said that is correct. Devine said we have not accomplished a thing, but we have spent a bunch of money. Vincent said about \$1,000 at that point. Devine said we have no grounds and can't file on them now because it's in the court. Vincent said we have never tried and he would have to think about that. Devine said it basically takes it out of our hands. Vincent said from the civil side, it is totally up in County. Devine said now, these people we have fought and tried to get them to clean up, is not going to do it and if they go to the County, they get their attorneys, who work with the judges, table or postpone it indefinitely, but if we leave it locally, at our level, we can file on them everyday of the week they maintain that nuisance. Vincent said that is right. Devine said they can be fined, up to \$500 per day. Vincent said right, but you might have multiple offenses and that's why we use the "per offense" deal. Devine said that would get into their back pocket a lot quicker than that \$1,000 going to County and it just sits there. Shanklin said they will take you to District Court and you will be exactly where you started.

Vincent they would appeal the decision of our judge to District Court and we will be back where we are right now. That's exactly what happened with the gentleman you are talking about because that District Judge ended up being the one to put him in jail and issuing the fine notice that we later negotiated. Bass asked if we received any of that \$1,000 back we spent. Vincent said it becomes part of the lien process that we're working, again, through the legislature. Bass said if they decide to tear that house down and you get a lien with \$1,000 on there and before the house is sold, you have an opportunity to receive your money back. Vincent said that is correct. Mitchell said, or a portion of it and that money goes back into your General Fund.

Patton asked if Devine was saying to get out there and write citations. Devine said exactly, we direct our staff in Neighborhood Services to do something and as soon as they do it, then somebody complains, we just jump up and say not to write the ticket, we'll do it some other way. He said we have the staff so confused they don't know which end they are working from because one day we tell them to write the ticket and the next we tell them to file them in the court and the next day, back and forth. He said we try to give them guidance, but we never stand behind the guidance we give them.

Ewing-Holmstrom asked if we have enough staff to go out and write these tickets. She asked if there were enough people to keep up with the amount of properties in violation; it's really about manpower, getting out there inspecting these properties and citing them. Devine said we do it everyday.

MOTION by Shanklin, SECOND by Warren, to approve a supplemental budget appropriation to the Legal Services Department. AYE: Shanklin, Patton, Haywood, Warren, Bass, Hanna. NAY: Devine, Ewing-Holmstrom. MOTION CARRIED.

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BUSINESS ITEMS:

28. Consider accepting the annual audit report of the City of Lawton for the year ending June 30, 2003.

Endicott said the FY 2003 external audit has been completed and Mr. Craig Legener, auditor in charge, from Standfield & O'Dell, was here to give a briefing on the audit. Endicott said he was pleased with their assistance this year, having some pretty tough new guidelines and Legener will address those for the Council.

Legener said there have been some significant changes this year. The GASB-34, Governmental Accounting Standards Board Opinion Number 34 significantly revamps the financial statements a City will issue from here on out and was one of the reasons for his presentation to show Council an overview of what they were attempting to get at. He said one of the new requirements on the new statement is that Management now must write an MD&A (Management Discussion and Analysis) of the financial results of the City. He said the audit report states the basis for which they did the audit; it indicates that management is responsible for this financial document and their responsibility is to express an opinion upon it. The standards they followed required them to provide reasonable assurance that the statements are materially correct and in their opinion, these statements do present the financial condition and results of the operation of the City of Lawton, year ended June 30, 2003. Legener said the first thing the GASB did was want you to now look at an overview of the City operation; have everything put together in one snap shot. He said some people wanted the business type activities broken out and now we have a three column approach showing the governmental activities in the first column, the business type activities in the second column, and the total for the City as a whole in the third column. He said the City of Lawton, the business type activities constitutes the Lawton Water Authority and all related accounting type funds of this authority. All other activity of the City is now reported in the Governmental Activities Fund.

Legener said the basis of presentation here is on a full accrual basis, so we recognize all assets, all liabilities, current and short; this is much different than the budget basis Council has been accustomed to working with. He said the bottom line is we show this on a net asset basis; we have \$184 million in assets for the City, some \$81 million liabilities, leaving us with net assets of \$103 million.

Legener referred to page four of the report and said the Statement of Activities now shows the revenues and expenses of the City and focuses on the net expenses of the operations of the City. The first column shows expenses of providing City services; governmental services cost us almost \$50 million dollars this year, with the largest being Public Safety with almost \$20 million. The business type activities; water, sewer and refuse cost us \$21 million, so we expended \$71 million this last year in providing services to the public. In the next three columns we deduct the related program revenues to those expenses, to come down with a net expense or revenue for providing that particular service. He said charges for services off governmental activities (grants) ended up leaving a net \$33 million cost for providing city services. Business type activities produced a \$5 million profit, so the net expense to the City was \$28 million. The bottom of this statement reconciles those net expenses, down with other revenues the City receives, principally in the form of taxes, to come down with the change in net assets for the City as a whole.

Legener then referred to page five and the following pages of the report and said these will be more familiar to Council. He said here is where we start presenting the major fund groups and it has to be a certain criteria to be presented here and all the smaller funds are grouped together in the last column. He said this statement is prepared on a modified accrual basis, basically, certain long term assets and liabilities are deducted from the presentation.

Legener said page six is, again on a fund basis, for the major funds, and represents the revenues and expenditures on this modified accrual basis.

Legener moved on to page 39, the Budgetary Comparison Schedule, one of the required supplemental schedules and this shows the legal level of expenditures you can make; what your budget was, the actual expenditures, and what funds you have available to carry over to next years budget. He said while the other funds may have been showing \$5 million of fund balance, here you only have \$1.2 million available for next year's expenditures.

He said the remainder of the report is the Governmental Auditing Standards Report on Compliance, with laws and regulations, internal control, there's also one on single audit testing of Federal Programs and the very back of the report, on page 47, is the Schedule of Findings and Questioned Costs. He said this is a required title they have to use, and it just summarizes the results, indicating we have issued an unqualified opinion that there are no material weaknesses. He said there was one reportable condition we did issue; you were in compliance with all other aspects, that there are no findings on the Financial Statement level, other than the one recommendation we've had out there since 1997, that Municipal Court Bonds be reconciled with supporting detail and the cash balances are not in agreement, they have been off since 1997. He said he understands they are continuing to work on that reconciliation.

Legener said the last document Council received is their Management Letter Comment. He said their recommendations, with this new reporting presentation, is you consider updating your accounting system. It isn't very easy to convert from your current books to this financial reporting format; the staff had to spend considerable time putting things into Excel and making manual adjustments. There are computer systems out there now that will produce these type of reports. We also recommend the staff be trained on these new reporting models; it will make it more efficient and allow you to have your financial statement on a more timely basis. Their other recommendation was on an investment policy and he has heard you have appointed a committee and the last part would be to go ahead and ultimately approve the investment policy.

Legener said there is one matter he didn't put into this report and wanted to bring it to Council's attention. He said they have a change in their auditing standards that go into effect January 1, 2004, dealing with fraud. There is a new requirement; we will be required to go to many more people than we have in the past to make inquiries about fraud, and one of those groups will be the Council. We are now required, that anybody who accepts reports or appoints auditors, come to you and ask three questions; 1) What is your attitude towards fraud?; 2) How have you conveyed that attitude to management and employees?; and 3) Are you aware of any fraud? He said in the past we have talked with various levels of management about fraud issues and the third group we have to add to those inquiries are going to be employees and one of the things we recommended is you go ahead and notify your employees that next year the auditors will be coming in and going to some accounts payable clerk or some purchasing clerk or it could even be a water meter reader and ask them, "Are you aware of any fraud?" He said that's a new requirement we have and their concern is if we do that, without you notifying them, all of a sudden people are going to start thinking there's fraud going on and that is not the case, it's a new requirement.

Ewing-Holmstrom asked for further explanation on the Municipal Court Bond reconciliation. Legener said the Municipal Court has a certain amount of cash on hand it has accumulated over the years and has bonds taken in from people and the listing of the amounts they have collected from individuals waiting to be settled in the court process, does not match up with the cash on hand. Ewing-Holmstrom said if we have had problems for the last six years, since 1997, she feels what we are doing isn't working and if our outside auditors are saying these efforts are not working, what are we doing differently now than we have in the last six years to try to correct this problem?

Mitchell said he would like Endicott to address that, but said we are looking at trying to change the way we process them and trying to address that through our upgrades in our computer system, but Endicott would have a much clearer answer for you. Endicott said when he was the internal auditor, these kind of issues were problems going back probably further than 1997, but they manually have to do a lot of these things and part of it is staffing, part of it is our process, just how we do things. He said he doesn't want to say our computer system is totally outdated, but that's part of the problem and we have got to fix it this year. He said that is one of the things he will have to encourage them to do this year. He said our accounting department is working with them trying to get this fixed and he doesn't want to see this in next year's audit report.

Shanklin said on the 2000 CIP, the balance sheet on page 5 shows \$1,021,000 as of June 30<sup>th</sup>, so even though we are still collecting sales tax for the 2000 CIP, he doesn't understand the difference between \$101,000 and the \$1,021,000.

He said we have an investment return and investments in cash around \$1 million on page 5; he asked where we lost this, or did we lose it. Legener said for the CIP Fund, we have \$420,000 in cash and investments, \$595,000 in investments, some \$5,000 in interest, totaling \$1,021,000 of assets. He said we have \$51,000 of accounts payable, leaving us with \$969,000 of fund balance reserved for encumbrances. Shanklin referred to page six asking what the \$101,000 means.

Legener said this is just the revenues, page 5 is the balance sheet which tells us what the assets and liabilities are, and on page 6, the \$101,000 represents the income that has come in during the current year. He said we had \$65,000 of investment return, that is basically your interest income and \$36,000 from governmental programs for \$101,000. He said during the year we spent \$4,855,000 on Capital Outlay, we had transfers in and out, and coming down to what our net balance is, which is the \$969,000, left in our fund balance, which has been reserved. Shanklin said we have, roughly, \$1 million, except for encumbrances, we put on since June 30<sup>th</sup>, in this 2000 CIP. Legener said yes, you had \$1 million of cash and \$969,000 of encumbrances, \$51,000 of accounts payable.

Hanna said out of that \$969,000, haven't we allocated that money to Public Works, so we don't go out and start spending money we don't have? He have allocated some of that money somewhere else already. Bass said it's all committed.

MOTION by Shanklin, SECOND by Warren, to accept the annual audit report of the City of Lawton for the year ending June 30, 2003. AYE: Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Bass, Hanna Devine. NAY: None. MOTION CARRIED.

Ewing-Holmstrom requested the City Manager to periodically give Council an update on the ability of Municipal Court's inability to reconcile the Municipal Court Bonds. She said she doesn't know how much money we are talking about, but a six year problem, this red flags. Mitchell said it's a reconciliation problem, not a question of we can't find the money, it's simply reconciling collections versus the revenue we have. Ewing-Holmstrom said she thinks we should purchase new calculators and make that work, but that's a problem. Endicott said he would make sure updates are provided.

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29. Hold a public hearing and consider a resolution amending the 2025 Land Use Plan from Industrial to Commercial and an ordinance changing the zoning from C-5 (General Commercial District) and I-1 (Restricted Manufacturing and Warehouse District) to C-4 (Tourist Commercial District) zoning classification located at 2801 SW Lee Boulevard).

Bigham said this is a request for amendment to the Land Use Plan and a rezoning from C-5 and I-1 to C-4 Commercial. The property in question is currently a mini-warehouse project in an educational book store facility. He said the applicants have made this request, the projects have already been built and they fall within the zoning classification out there, but they wish to down zone the property to C-4 Tourist Commercial, which would allow non-accessory signs or billboards to be placed on this property, which are prohibited under the current zoning. The Planning Commission, on Dec. 11, 2003 held a Public Hearing on this request, with one person speaking in favor of the request and no one speaking against it. The commission, by a 5-3 vote, recommended approval of this request to the City Council. Twelve property owners were notified, in writing, of this Public Hearing, as well as proper notice being published in the Lawton Constitution.

Public Hearing was opened at this time.

Mike Brown, 8225 Stonebridge, said he would like Council to approve this.

Public Hearing was closed at this time.

Vincent read the ordinance title at this time.

MOTION by Shanklin, SECOND by Ewing-Holmstrom, to approve Res. No. 04- 04 amending the 2025 Land Use Plan from Industrial to Commercial and Ord. No. 04- 02 changing the zoning from C-5 (General Commercial District) and I-1 (Restricted Manufacturing and Warehouse District) to C-4 (Tourist Commercial District) zoning classification located at 2801 SW Lee Boulevard). AYE: Shanklin, Patton, Haywood, Warren, Bass, Hanna, Devine. NAY: Ewing-Holmstrom. MOTION CARRIED.

(Title Only)

**Ordinance No. 04-02**

An ordinance changing the zoning classification from the existing classification of C-5 (General Commercial District) to C-4 (Tourist Commercial District) zoning classification on the tract of land which is hereinafter more particularly described in Section One hereof and changing the zoning classification from the existing classification of I-1 (Restricted Manufacturing and Warehouse District) to C-4 (Tourist Commercial District) zoning classification on the tract of land which is hereinafter more particularly described in Section Two hereof; authorizing changes to be made upon the official zoning map in accordance with this ordinance.

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30. Hold a Public Hearing and consider adopting a City Council resolution to support an Oklahoma Affordable Housing Tax Credit (OAHTC) application by Tejas Housing and Development, Inc. to the Oklahoma Housing Finance Agency (OHFA) and authorize the Mayor and City Clerk to execute the document.

MOTION by Haywood, SECOND by Bass, to table this a couple weeks or more, until more information can be obtained. AYE: Patton, Haywood, Warren, Bass, Hanna, Devine, Shanklin. NAY: Ewing-Holmstrom. MOTION CARRIED.

Shanklin said he asked Rita Love to be here and she didn't get to make a statement, but asked her to send a letter to the Council on what the occupancy rate is and how this would be competing against our own Lawton Housing Authority.

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31. Consider approving a revocable permit for Mr. Travis Hunter to utilize a portion of the NW 62<sup>nd</sup> Street right-of-way adjacent to 6202 NW Oak Avenue for parking and maneuvering.

Bigham said this is a request for a revocable permit which is under one of the provisions of the City Code. He said this is a non-conforming situation with Article 8, Chapter 18 of the Zoning Code which says when you expand the footprint, or enlargement of a building, you must comply with all the requirements of the Parking Code. He said there is a provision that says if the Code requires you, in this expansion process, to discontinue the use of the Public Right-Of-Way, the Council may grant a Revocable Permit. He said the location in question, 6202 NW Oak, has a large metal building there and the owner wishes to construct a building in back, which would require the use of the ROW, to be discontinued from parking, as it's been used over the years. Bigham said they did receive emails from Centerpointe Energy Company and Southwestern Bell, objecting to the issuance of the Revocable Permit.

Warren said the applicant has a business currently on this property and wants to put up a storage building, not attached, behind it. It is not enlarging the footprint of his present building, it's just a storage building with no water or sewer, but it will have electricity. It will be a storage area where he can store lawn mowers. What has happened in this and it's no fault of Planning, it's just the way the Code is written, that suddenly the applicant has to provide more parking because he's going to have storage for his lawn mowers. Bigham said it doesn't really require any additional parking, it's just to meet the Parking Code as we speak right now. He said the main issue is the previous owner paid for the City Right-of-Way and the Code provision says if you expand the project, you have to discontinue the use of the Public property now being utilized as parking.

Warren said he understands Centerpointe's problem, because they have utilities buried there, but everything was going along fine, until this gentleman decided to put a building behind his current building. He said the problem we have is all he wants to do is build an accessory building and rather than putting up a piece of junk, he wants to build a nice building with a concrete foundation. He said nobody has a problem with the building he's wanting to build, he's not trying to build a building on the utility easement or anything else and he would like to find a way he could build that building and keep everybody happy. Warren said he doesn't want to just tell him no. Bigham said this process we are going through now, does provide the applicant that release valve. He said prior to 1995, people could use the Public ROW for parking, they could pave the ROW, but we changed that, but did have the provision in there, if you went in and added to a building, you would have to conform. He said they did add the provision in the Code that says if you are required to remove parking from the ROW that's been there, if it's on a minor street, the Council may issue the revocable permit prior to issuing the building permit. He said that release valve grants the Council the authority to issue a revocable permit to allow him the continued use of this ROW and build his building.

Ewing-Holmstrom said in the packet given to Council, it clearly states that Centerpointe Energy and Southwestern Bell have objected to the issuance of the permit and asked if they are going to speak on this issue. She said she thinks we have to stand by these utilities requesting us to not issue these permits and in our packet, it clearly states that Centerpointe Energy and Southwestern Bell have requested we reject issuance of this permit and she encourages Council to do that. She said we have to, they know what's best because that's their utilities.

Shanklin asked what the size of the building is. Bigham said it's an 18 x 36 foot building. Shanklin asked if there was utilities under this right now or could be in the future. Bigham said we should have the utility companies address that.

Powell said to let Mr. Hunter speak first. Hunter said he owns the property at 6202 NW Oak and bought this in March last year. It used to be a pet parlor and they had to expand the paved parking to have 600 feet of public use parking. He said when he started this he looked at three options; 1) putting a convex back there, with no permit; 2) was to put a skid-mounted (portable) building back there, so he could store 3 or 4 riders and a couple walk-behind lawn mowers and that wasn't feasible; and 3) he had someone come out and give him a bid on building an 18 x 36 foot building. He said an 18 x 36 will fit inside his property line and still leave an 8 foot easement in back where Centerpointe gas lines runs. He said there is no utilities running through where he is going to locate the building. He said on December 9<sup>th</sup> the Planning Director indicated several things he needed to do in order to build the building. He had to cut out 10' of the ROW on the west side of 67<sup>th</sup> Street and put in greenery. He said he didn't have a problem with that but it created a safety problem. If he did that, customers for the barber shop would be parking along the street because there is no restricted parking in that area because it goes from commercial to residential within half a block. He came back and asked Bigham what his options were and was told he had to go before Council and submit a Revocable Permit Application, which he did and paid his \$50 to do so. He said he would like to build a building and the property has been surveyed; the 6" main gas line that runs down the easement is not going to be interfered with if he builds this building. He said SBC's utility lines are overhead lines coming into his property and there are no buried lines underneath his property. He said the gas main runs parallel with 67<sup>th</sup> Street. He is not going to interfere with SBC's lines or AEP lines; he just needs to build an accessory building for storage.

Warren said normally he would agree that we need to protect our easements as much as possible, but the problem here is this gentleman doesn't want to pave any easement, that easement has already been paved; all he wants to do is put a building behind his building. The paving of the easement was already done prior to him buying this building. Warren said what we are wanting him to do is put this new building behind his building, rip out asphalt that somebody else put in there, put in some bushes or something like that, to protect the utility easement and then park on the street. He said if that's what we want to do that's ok, but it doesn't make any sense. Why can't we just

let him leave it the way it is?

Hunter said he is confused, because he can build a 10 x 10 and not come before the Council. He said he was told by the Planning Director he could build a 10 x 10, but he doesn't want to do that, he just wants to do it the right way, one time, so his property looks good and that's all he's asking.

David Hegwood, Operations Manager for Centerpointe Energy, said he doesn't have a problem with Hunter's building, it's fine where he wants to build it, it's the revocable permit that they have a problem with. He said they have a 6" high pressure steel line, 125 lbs. running parallel with 67<sup>th</sup> Street. He talked with Warren about this and it's just like Hunter said, when he bought the property, it was already paved, well, 3 years from now if he sells the property, the next guy is going to come out and put in bumper guards and drive stakes down through them through that high pressure main. He said their point is that they pay their franchise fees to utilize these ROWs and easements. He said they paved it without them knowing about it. Warren asked if it would be acceptable to Centerpointe's group if Council figured out somehow, not to issue this revocable permit, but to allow him to build that building. Hegwood said sure, the building is not problem; how he's utilizing it right now is great, it's not hurting anything, just as long as he understands if we have to go in there and dig it up, we could. Hegwood said if a new property owner came in and he says he doesn't have an easement out here, it's been revoked, so I can do anything I want out here and that's the problem.

Devine said he thought the whole purpose of having a revocable permit was if somebody needs that easement you could revoke that permit and have him move the building. He said if we do it the way Warren wants and allow him to do this, we have no tools to go out and take the easement back and have him move his building, but with a revocable permit we can revoke that permit at anytime and he would have to move the building at his cost. Warren said the building is in his property. Powell said yes, the building is in his property. Devine said that doesn't make a difference, you still give him a permit and you can revoke it at anytime. Shanklin asked if the entire building is in his property. Powell said yes. Warren said all that is in contention is some asphalt that was laid earlier by a previous owner.

Vincent said we can add to the revocable permit that this permit cannot be transferred to a subsequent owner and will be filed as record in the County Clerk's Office, that would solve this problem. Powell asked the utility companies if this would be alright with them.

Keith Marpel, District Manager with Centerpointe, said the issue here is the methodology in use of Revocable Permits and the monitoring of those. He said they are not seeing any type of methodology consistent and they're incurring damages. Facilities are being built over them and they are having to incur expenses having to move them, so they need some consistency. He said you will see Centerpointe Energy and the other utilities standing up against anything until we get some consistency and it's the hope that they can bring before Council some recommended solutions, some actions, hopefully by next Council meeting on this. Warren asked if what the City Attorney just said accomplished what we are talking about; the asphalt is already there, there's nothing we can do to make him move that. He said if he doesn't build a building, you're going to go in and make him remove asphalt that was already there when he bought the property. Bigham said the Code requires him to bring this lot into compliance with City Code. In this case, that means, move the parking paving off the City ROW. Warren said that was his point. He's wanting to build a building so suddenly we're going to make him fix a problem that he doesn't have to fix and if we do what Vincent said, it serves both sides, because if he doesn't build that building, he's going to leave that asphalt till the end of time and the next owner is going to have the same problem he has. If we do what Vincent said, we give him a revocable permit that is filed with the County and anybody doing a title search on that property, subsequent to him selling it, is going to know there is a utility that is not useable there. Vincent said it will say that this permit is revoked on his transfer of the property.

Marpel said this is what he is trying to get across; that we need a consistent methodology of the way we are going to handle these, because this is not the only instance. He said in this case we have a 6" line buried here and we want to control what activity goes on above it. He said if they had of had their preference, when somebody was up here wanting to pave this parking area, we would be contesting that. He said the issue is the permit and they are going to contest any revocable permits. He said in answer to the question, they are still objecting to the revocable permit until we finalize exactly what the process is and methodology of how those will be used.

MOTION by Warren, SECOND by Patton, to approve a revocable permit for Mr. Travis Hunter to utilize a portion of the NW 62<sup>nd</sup> Street right-of-way adjacent to 6202 NW Oak Avenue for parking and maneuvering, with the stipulations that there be no additions to that parking lot or easement added to the revocable permit.

Shanklin asked why he is getting a revocable permit if it's on his property. Bigham said the purpose of the request for the revocable permit is for the continued use of the paving that is on the 62<sup>nd</sup> Street ROW. He said under Code provision, right now, when you expand a building or property, you must conform to the Code requirement and that would be to remove the paving that's off of his property, that is on the City ROW, however, there is a provision in the Code where the City Council may issue a revocable permit for the continued use of the paving that is off of his property on the City ROW. Shanklin said we are not going to go back all over town and make everybody who has asphalt and paving over the ROW, remove it now. Bigham said our tool to use that is to try to bring properties into conformance with the Code when

they expand the building. He said if there is nothing going on, they are protected under the Grandfather Clause, as we say, they don't have to do anything. It's when they go in and change something that they have to conform to the Code.

Shanklin asked if Hunter was using that ROW as parking then. Bigham said yes, that is correct. He explained to Council where the area was that was paved on this property and said, under the Code right now, for him to expand this property, the parking would have to be removed from the ROW. He said Hunter is requesting this Revocable Permit to continue the use of this pavement on the City ROW for parking and maneuvering. Bass asked if this was just asphalt and not cement. Bigham said yes, it was asphalt.

Ewing-Holmstrom said these utility companies pay the City a franchise fee; we charge them money and then we turn around, and it's nobody's fault, it's nobody's paying attention's fault is what it is, and we have people paving over these utilities and nothing against Hunter, but he bought somebody else's problem and buyer beware. She said unfortunately he has asphalt over a utility easement that is not up to Code and how we can fix that is for Hunter to pull it all up and get it up to Code. The problem is, we are not doing our utility companies any justice; we are in business with them and need to do what they are requesting and stick within the Code. She said she just couldn't go with this.

Bass said we all care about the utility companies, we all understand that, but what we are trying to do is solve a problem. He said you (Ewing-Holmstrom) was really not trying to solve the problem. He asked if there was anything that could be put on there besides asphalt, that you could park on. Is Arkla willing to take that asphalt off for him to put gravel down and let him use that so they could get in there if the high pressure line messes up?

Bigham said Hunter just wishes to continue what's out there right now. Bass said that's not solving their problem. Bigham said Council may stipulate any provisions they desire, in the Revocable Permit, as Vincent suggested earlier. He said if you want to limit it to the current asphalt that is out there and it cannot be replaced, or whatever provisions Council wishes to put in there. Shanklin said they could put a sign saying there is a high pressure line there. Bigham said that is certainly something the Council could put in the Revocable Permit.

Warren said the Planning Department failed, so now it's our problem. He asked if there were any restrictions to keep him from parking on the street. Bigham said that is also up to the Council to put no parking signs up there.

Warren asked if there was any there now. Bigham said not to his knowledge. Warren asked Hunter if it would serve his purpose if Arkla came in and pulled out that asphalt and we allow you to park on the street. Powell said that is really not the solution; you are inviting people to park on the street. Warren said you can park anywhere in Lawton, Oklahoma, on the street, as long as there's no parking signs. He said he is just trying to find a solution because he thought we had one, but Arkla's not going to be happy with anything other than telling this gentleman he can't build a building. He said they want the asphalt gone, they want their utility easement back and he understands that and he still stands with his motion. Powell said you have a motion on the floor. Warren said he would amend it; to give this gentleman a Revocable Permit that will be filed in the County, that will restrict the transfer of that permit to a subsequent owner and would also restrict him from adding any parking blocks or any other accoutrements to that asphalt.

AMENDED MOTION by Warren, SECONDED by Patton, to approve a Revocable Permit for Mr. Travis Hunter to utilize a portion of the NW 62<sup>nd</sup> Street right-of-way adjacent to 6202 NW Oak Avenue for parking and maneuvering, with the stipulations that the permit be filed at the County, restricting the transfer of that permit to a subsequent owner and restricting the addition of any parking blocks or any other accoutrements to that asphalt added to the contents of the Revocable Permit. AYE: Haywood, Warren, Bass, Hanna, Devine, Shanklin, Patton. NAY: Ewing-Holmstrom. MOTION CARRIED.

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32. Consider adopting an ordinance pertaining to unauthorized parking in City parks, amending Section 701, Article 7, Chapter 19, Lawton City Code, 1995, by restricting parking in City parks to those persons using the park or its related facilities, providing for severability, and effective date.

Chief Thorne said this item deals with amending the current ordinance which addresses City parks. We would like Council to consider restricting parking in the City parks parking areas, to vehicles utilizing the park facilities or adjacent facilities in the park. He said in the past, they have encountered some problems with vehicles parking in the parking lots of City parks not specifically for the purpose of utilizing the parks.

Bass asked what if a couple goes to the park and both park their vehicles and decide to go to dinner and don't return for three or four hours and one of their cars is parked there, what happens in that situation? Thorne said that would be utilizing that as a parking facility and not a place to park a vehicle while enjoying the facilities of the park. Bass said then your car could be towed off. Thorne said that specifically hasn't been the problem, the problem has been large amounts of vehicles parking in that parking area, utilizing that as simply a parking lot.

Devine asked if this ordinance would pertain to an ice cream truck that pulls into a parking lot where kids are playing to sell ice cream, he's in violation of this ordinance then. Thorne said that would be subject to interpretation of the ordinance. Devine said that's what he's saying, wouldn't he be utilizing that parking lot other than to go play on the swings or whatever. He said he would hate to think we would stop any of the refreshment trucks from driving in there because the kids are in there playing and sees it all the time at Greer Park, Kid's Zone.

He said the ice cream truck pulls in there and all those little kids come out in the parking lot to buy ice cream, etc. from him. He said what worries him if we pass an ordinance like this that restricts him, then he is going to have to park on the street and these kids are going to have to come to the street to get what they want.

Shanklin asked if there was a time frame on this. Haywood asked if it was at night. Thorne said the park closes down after 11:00 p.m. Devine said if this was for after hours he would agree with it 100%. Bass asked if they could make it where all the cars have to be moved by 11:00 p.m. when the parks close. Thorne said yes, after 11:00 the parks are closed and that is the current ordinance.

Powell asked Thorne to tell Council specifically why he is wanting this. Thorne said some of the problems are, at certain times of the year in our City parks, we have a large volume of individuals there simply to utilize the parking lot as an area to meet and really don't partake of any of the facilities in the park. He said sometimes citizens may feel threatened by going into those areas where there's a large amount of vehicles and we also have had illegal activities that have occurred in our parks in the parking lots.

MOTION by Devine, SECOND by Ewing-Holmstrom, to adopt Ord. No. 04-03 pertaining to unauthorized parking in City parks, amending Section 701, Article 7, Chapter 19, Lawton City Code, 1995, by restricting parking in City parks to those persons using the park or its related facilities, providing for severability, and effective date. AYE: Warren, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

Vincent read the ordinance title at this time.

(Title Only)

**Ordinance No. 04-03**

An ordinance pertaining to unauthorized parking in City parks, amending Section 701, Article 7, Chapter 19, Lawton City Code, 1995, by restricting parking in City parks to those persons using the park or its related facilities, providing for severability, and an effective date.

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33. Consider adopting an ordinance amending Section 22-2-1-216, Water Meter Placement, in Chapter 22, Lawton City Code, 1995, providing for severability and declaring an emergency.

Vincent said this was a clean-up ordinance; when we passed Ord. 03-50, concerning water used in construction, there was another section of the Code that was inadvertently left out and all we are doing is changing a reference from a Sub-Section B to an A.

Vincent read the ordinance title at this time.

MOTION by Shanklin, SECOND by Devine, to adopt Ord. No. 04-04 amending Section 22-2-1-216, Water Meter Placement, in Chapter 22, Lawton City Code, 1995, providing for severability and declaring an emergency. AYE: Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren. NAY: None. MOTION CARRIED.

(Title Only)

**Ordinance No. 04-04**

An ordinance pertaining to Water Meter Placement amending Section 22-2-1-216, Article 22-2-1, Division 22-2, Chapter 22, Lawton City Code, 1995, providing for severability, and declaring an emergency.

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34. Consider a request from Comanche County to waive payment of all utility costs for the Comanche County Nutrition Project for the balance of the fiscal year.

Mitchell said they had a meeting recently with the County Commissioners and they made a request to the City to waive the balance of the utilities for this year, due to a cut in their State funding. He said our agreement with the Comanche County Nutrition Project, is they pay 100% of the gas bill and 50% of the electric bill in lieu of rent; so far this year, the County has paid \$764.71 on the gas bill, but has not paid anything on the electric and we estimate the balance due for the remaining portion of the year, for the utilities, would be about \$16,000.

Shanklin asked what was the funding source. Mitchell said the only funding source he could think of is the existing Park and Recreation budget, because essentially, we pay those bills and we are reimbursed by the County Nutrition Project.

Ewing-Holmstrom asked what was an alternative funding source, if this should be denied. She asked if they had sought any grants. Shahan said the program is conducted by the County, we are the facilitator, so the facilities are the agreement between the County and the City, so the agreement is for them to pay the utilities; the 50% and 100% and at this time, they have made the request for us to waive those fees. Devine asked if this would be temporary. Shahan said that was the request for this year. The appropriations for the management of those facilities is in the budget; we pay the bills and they reimburse us, based upon the bill sent to them.

Ewing-Holmstrom asked County Commissioner David Pope what their alternative funding source would be if the City denies this. Pope said this money comes from the Federal Government and the State to ASCOG, which is in

turn, passed to the Nutrition Center, which is a County entity. He said it suffered a huge cut; they lost \$47,000 in cash, they just came along and wiped it out. These facilities, there are seven of them in the County, four inside the city limits, and they have lost roughly \$63,000 out of that program. He said the County is going to make up the balance of this; they are paying utility costs at south and paying the utility costs at the other sites, but they have got to come up with a way and don't feel that paying the utilities, when they are not at some of these facilities but one hour, is appropriate on this budget crunch and are asking Council for help, that's the bottom line. He said the alternative source; they cut it, but don't want to do that. They serve senior citizens, they want to continue doing that and think with the City's help and the help they, as County Commissioner's are going to put to it, can make this work.

Powell asked why didn't they come to the City when they saw they were getting into a struggle on this. Pope said they did; in September they went to Haywood and thought they were going to get some relief from the State Senators and the House of Representatives, but it didn't come. He said they have been fighting this since the first of October. Haywood said they had two meetings with the City Manager, some senior citizens and two with Pope and one with Turner.

Ewing-Holmstrom asked if they have gone to any private organizations that have money or have there been any avenues at all. Pope said there's no money out there and no, they have not, to answer her question. She said the City of Lawton doesn't have any money and everybody's wanting money and of late, we have been giving out all kinds of money, but her question is, are there other avenues the County might take before coming to the City that might be able to help and might have money available and be more than willing to support this program. Pope said they have tried through private donations and to get citizens to participate and that is the extent of their efforts to this point. He said McMahon Foundation has helped them in the past and they went to them and did not get a favorable response. Ewing-Holmstrom said ASCOG and State doesn't have the money, so next year, if we absorb this, this year, are we giving a signal, possibly, that the City of Lawton has a little bit more money than what we've told and now how will the State or Feds look at it; you found somebody to bankroll your efforts last year, pick them up again. Pope said he understands where she is going and they have the same problem at county government, they are going to have to pony up more than \$16,000, much more, about \$47-48,000 to be exact, just to keep this program afloat and not cut it. He said this is a senior citizens program and they don't want to cut it.

Bass asked if the \$48,000, was the funding they have for these two projects. Pope said the funding this year is \$439,603 and prior year was \$479,521; you take that plus the cash they wiped out, State came along, Dept. of Human Services and wiped out \$47,000 just like that.

Warren said back during our budget discussions, there was a point in time where there was a consideration to close these centers and part of the reason we didn't was in order to handle this Nutrition Project. He said had the City of Lawton closed those facilities down to where they would not be able to use them, what would they have done at that point? Pope said the Patterson Center, which cost roughly \$10,000, just for someone to be there to serve the food, they would have saved that amount of money. He said they do run buses, they would have provided bus transportation to another site, HC King, but when they met with the people, your City Councilman and he walked away with a clear understanding that they had to come up with a way to keep this program afloat and they did not want to cut any of the programs. Shahan said if we had of closed the building, no programs would have existed. Warren asked if you would have transferred and have those programs available for those individuals.

Pope said HC King, yes; they could not have gone to Patterson but could have gone to HC King and they would have serviced them. Shahan said to answer your question, that would have been one of the buildings too, all the buildings would have been closed. Warren said that is what he was trying to get at; if because of budget concerns, had we had to have closed those buildings, what would the County have done in order to serve those citizens?

Pope said we would have taken them and offered them services at HC King or south. Warren said my point is that HC King would have been closed too. Pope said we would have continued to operate at south, at the Fair Grounds.

Warren said so if we did decide not to extend these funds, those people would not be left out in the cold, they would still be bussed to the south. Pope said that is correct, but the key to this is, as an example, at Patterson Center, they are only there for one hour and are paying a huge amount of utilities there; both electric and gas and are only there for one hour of service.

Bass asked if Pope was trying to tell us, in a round about way, next year in our budget, we need to go ahead and prepare to get another \$15-20,000 ready, that the County will probably not be able to help us in this manner. Pope said yes; the only provision is if the State and Federal government provides money, he will come back and be honest with you as he was just now.

Warren said he keeps feeling like the citizens of Lawton are getting stung; time and time again, every time we have a dealing with the County and that's nothing against Pope or any of the Commissioners, it just seems like every time we turn around, Lawton is the one carrying the weight for the County. He said during budget time, we issued an invoice, for lack of a better word, for the use of the library, for \$40,000, they sent us a check for \$30,000, no explanation of why, they just did it and that's just the way it is, that's how much you get. He said continually, we're shouldering the burden of the County time and time again and at some point, if this continues the trend, he thinks the citizens of Lawton need to look at talking to their Congressman, Senators and doing what we have to do in

order to make this a unified City-County Government because we can't continue to carry the load so there can be a Comanche County. We have tried to give E911, we have attempted to put the foot forward and share the services, that failed and there's no telling how many dollars of Lawtonian's money are being expended because we are unable to work between the City and County and it's because of things like this. He said they knew for months that they didn't have that money, but yet they just didn't pay it and maybe there was discussions with Haywood and no offense to him, but Haywood is not this Council and not the one who is going to write the check if we decide to do this tonight; that should have been brought to the Council early, when they couldn't pay the bill to begin with. He said not only are we being asked to pay the future debt, we're being asked to pay the back debt on top of that.

Powell asked what percent of the folks being fed are citizens of Lawton. Shahan said at our facilities they're all citizens. Powell said that is his point and they're our citizens in the confines of this city limits.

MOTION by Haywood, SECOND by Hanna, to waive payment of all utility costs for the Comanche County Nutrition Project for the balance of the fiscal year, paid from the Parks and Recreation Department. AYE: Hanna, Devine, Shanklin, Patton, Haywood, Bass. NAY: Ewing-Holmstrom, Warren. MOTION CARRIED.

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

Haywood said they are working at Dunbar, they are painting inside and painting the eaves and the areas we wanted them to paint and he knows the people of Lawton View will be involved in it also. He said last night they elected a new President, Mrs. Rosie Reed of the Lawton View Association after the resignation of Mr. Lewis. He said he went on a tour at Wackenhut about two months ago and he didn't know about all the things they did there to help the Parks and Recreation Department and other agencies here in Lawton, so he wanted to praise them for all their help; they are doing an outstanding job.

Shanklin asked if we had satisfied the lady with the empty lot that had a trailer on it in the 2000 block of C. Mitchell said we didn't satisfy her, our Council Policy, adopted when you organized the sewer rehab program, was that you would not keep sewer service lines on vacant lots and that was the policy of the City at the time of the program. Shanklin asked if she was explained that. Mitchell said yes. Powell said what happened was a piece of property that was vacant when our sewer rehab went out and put in the new sewer but did not reconnect the existing sewerline back to the new main sewerline. This piece of property was sold and the owner thought he was hooked up to the line and went out and hooked up his trailer house to the line and started to flush, etc. and here it comes back out. Mitchell did talk with Ihler to find out what the policy was and in the sewer rehab, if there is a vacant lot, they do not reconnect the old sewerline to the new one we put in. Powell said he asked Mitchell to see if we could get some kind of a flag waved out there to let the new owner know that they are not hooked up to our sewerline. Ihler said that is correct and the only thing he would add is that it's not just the sewer rehab; when somebody takes a lot with a dilapidated structure and it's removed, by Code, they are required to remove that service tag at the main, so there is no connection. Shanklin asked about a trailer lot permit, do we still ignore tying up the sewerline that was vacant at the time. Ihler said he just knows it would be treated just like any structure, if that structure is removed from the lot, that service tap should be removed from the sewer main.

Powell said to emphasize the point, we have asked they look at something that will throw a flag out there to let the new owner know they're not hooked up. Warren asked if there was any way to put a cap, a big yellow cap, on the other end of that line, and the ones that don't have a yellow cap, if we find one, we dig the whole line up and remove it. Let's say, if there's an empty lot that doesn't have the tap, that's allowed, the yellow cap or whatever, can we take the whole line? Shanklin said not on private property. Powell said they are looking at this situation and will bring us something back on this.

Shanklin said we all received our CIP packets and there were probably \$80-90 million worth of projects and we know we can't fund them all and this list was just to give us some ideas and he doesn't have a problem with that, but we did not include Lawton Public Schools and he thinks it's very important they be here with us on the 20<sup>th</sup> and present, in unison, a ballot to the tax payers of Lawton, which the Lawton Public Schools are part of and we're part of them. We did it five years ago and got Central Jr. High built and some other things together. He said we need them here.

Haywood asked Mitchell if we had a mechanism for street lights; he had lights out in every area, except Brentwood. He said he went to every addition and has turned this into Tulsa. Mitchell said he wasn't aware we had a problem with street lights. Haywood said we have a lot of street lights out, most of his Ward, down Lee, off Interstate 44, and also on 11<sup>th</sup> Street. Mitchell said he would pass that along.

Ewing-Holmstrom said she had some concerns for those who have been reading your Council minutes. She asked what the policy was about the minutes, how it is documented and transcribed because there are parts of conversations that she's not in the minutes and these are not actually typed up grammatically correct. How do we get that fixed and who also sees these before they are put into our packets? Vincent said he could answer the first part of her question; the minutes of the meeting are a summary of the actions taken by Council, unless the Council directs that they be published verbatim. Ewing-Holmstrom said it's just a snap-shot. Vincent said it is just a snap-shot. He said the other two parts of her question: who reviews them and the grammar issues, I can't answer.

Mitchell said he would say the City Clerk does. Shanklin said you can ask for a change in the minutes if you are going to correct them. He asked if she wanted them corrected. Ewing-Holmstrom said no, she wasn't going to change the City minutes; "Haywood asked how much this would cost?", that's not right, if you're going to type City minutes and your City Council minutes are going to be an overview or snap-shot, she asks if there was an actual transcript somewhere of actual conversations taking place at City Council. Mitchell said yes, a tape. Shanklin said it didn't bother him. Ewing-Holmstrom said a tape and we don't have to turn in a written record. Vincent said not unless the Council requests it. Ewing-Holmstrom said she didn't think Haywood asked how much this would cost? and I've noticed this has been going on the last couple months that it seems like you're not quite telling the story of what happens at City Council and that's her issue, because if we have to go back later and call the minutes that we have approved... Powell said they are on tape Amy. Ewing-Holmstrom said ok, but you can see what I'm saying. Vincent said if we have a legal issue, such as, what was the discussion that took place on the passage of the resolution, we actually transcribe the entire minutes. Ewing-Holmstrom said ok and then who reviews them before they are put in the packets. Mitchell said the City Clerk. Ewing-Holmstrom said and that's it, no Council member, no City Manager, nobody? Powell said the Mayor sure doesn't, he'll guarantee you that. Shanklin said we'll let you do it. Ewing-Holmstrom said she had all the time in the world to do that. Haywood said I probably did say that; "How much did it cost." Ewing-Holmstrom said she is being serious because if this is what we have to go back on we would want it to be accurate. Powell said there are points and times where he has asked for that and she could go in there and they'll transcribe it out for you. OK, it can be done.

Hanna thanked the people in Ward 2 for the support he has had the last, almost four years of being their City Councilman. He announced his intentions were to run again this next election and he requests the citizens continued support. He said he will continue to do the job and the only promise he made the last two times is that he will return phone calls and that's the only promise he will make this time.

Mitchell said to tie into what Shanklin had to say, there is a CIP meeting scheduled next Tuesday in the Library at 6:00 p.m. He said they will have a packet and agenda sent out to you on Friday and he is scheduled to meet with the School Superintendent next Tuesday and will call him tomorrow and make an invitation for him to come to the meeting next Tuesday. He said the intention here was simply to have an agenda and a way to kick off the discussion and was not the intention on our part to have any prescribed list of projects. He said they wanted to get the discussions started early to have plenty of time to develop a program and get that out to the community.

Patton asked if that would be opened to the public. Mitchell said yes it would be, it's a workshop and you won't be able to take any action at that meeting, but certainly, it's opened to the public.

Vincent said he is appointed to the OML Steering Committee for the Oklahoma Municipal Utility Providers and the meeting is on the 22<sup>nd</sup>, however, the Oklahoma Environmental Federation is having a meeting in Tulsa concerning Native American Water Rights and it also counts for his continuing legal education, so he will be going to that instead of the OML Steering Committee and he has talked with the President and he will send Vincent copies of the minutes.

Powell announced that Shanklin's youngest girl, Kelly, had a lung removed yesterday and asked for your prayer for her and any others out there that fit into that category, not necessarily confined to City staff or Council members. He said to Chief Thorne he hoped with the lessons learned from the recent loss of Highway Patrolman, Nicki Green, that we do everything in our power to protect Highway Patrolman, Sheriff people, our LPD guys and no situation is a safe situation, so whatever the cost, whatever your guys need out there under your guidance, leadership, and direction, just give it your best shot and he knows he is.

Devine said there is something we really need to take into consideration when we start thinking about our budget for this next year, is we need dash cameras for those police units, because if it had not been for that, that State Trooper would probably have been laying down there in his grave and there would have been no one to really be able to pin that on, if it hadn't been for that dash camera that told the whole story and that's something Council really needs to consider in our budget this next year, if the Chief puts it in there. Powell said he wants to go beyond that and wants precautionary stuff out there so we're not looking for the hombre.

The Mayor and Council convened in executive session at approximately 9:05 p.m. and reconvened in regular, open session at approximately 9:35 p.m. with roll call reflecting all members present.

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#### BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

35. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending Workers Compensation case of Jimmie Jones, Case No. 2002-06316-A, and if necessary, take appropriate action in open session.

Vincent read the title of Item 35 as shown above. He said Council convened in executive session and after discussion no action is required at this time.

36. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending Workers Compensation case of Helen Whitmore, Case No. 2003-07258-K, and if necessary, take

appropriate action in open session.

Vincent read the title of Item 36 as shown above. He said Council convened in executive session and after discussion no action is required at this time.

37. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending tort claim of Mark E. McFarland, Jr., DC-2003-112, against the City of Lawton, and if necessary, take appropriate action in open session.

Vincent read the title of Item 37 as shown above. He said Council convened in executive session and after discussion no action is required at this time.

38. Pursuant to Sections 307 B 3 and 307D, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the acquisition of property for the Southeast Water Treatment Plant, and if necessary, take appropriate action in open session.

Vincent read the title of Item 30 as shown above. He said Council convened in executive session and Council was presented with three options and we believe two of those options are a possibility and would request a motion on either contacting the School Land Commission about a 55 year Lease or the second option is to purchase the property by competitive live auction.

MOTION by Warren, SECOND by Bass, to pursue the second option to purchase the property by competitive live auction. AYE: Patton, Haywood, Warren, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin. NAY: None. MOTION CARRIED.

39. Pursuant to Section 307B(4) Oklahoma Statutes, consider convening in executive session to discuss Case No. CJ-2002-1200, First Union Home Equity Bank vs. Aaron B. Green, et al., and Case No. 03-16433BH, In Re: Donna Kay Green, and if necessary, take appropriate action in open session.

Vincent read the title of Item 30 as shown above. He said Council convened in executive session and after discussion no action is required at this time.

40. Pursuant to Section 307B.3, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the possible purchase of real property in Section 5, Township 3 North, Range 11 West, in the vicinity of Lake Lawtonka, and if necessary, take appropriate action in open session.

Vincent read the title of Item 30 as shown above. He said Council convened in executive session and after discussion of possible purchase of this property no action is required at this time.

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There being no further business to consider, the meeting adjourned at 9:40 p.m. upon motion, second and roll call vote.