

Meeting of 2004-11-9 REGULAR MEETING

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
NOVEMBER 9, 2004
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor John P. Purcell, Jr. Also Present:
Presiding Larry Mitchell, City Manager
 John Vincent, City Attorney
 Kathy Fanning, City Clerk
 Col. G. Keith Herring, Fort Sill Liaison

The meeting was called to order at 6:05 p.m. by Mayor Purcell. Notice of meeting and agenda were posted on the City Hall notice board as required by law.

ROLL CALL

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

ABSENT: None

PROCLAMATION BY THE MAYOR FOR NATIONAL AMERICAN INDIAN HERITAGE MONTH.

Mayor Purcell asked Billie Whipp, Supervisor from Arts and Humanities to come forward and introduce the guests.

Whipp introduced Annette Arkeketa, Juanita Pahdopyony, Delores Twohatchet, and Sharon Cheetwood, Arts Coordinator with the Lawton Arts and Humanities Division.

Purcell welcomed everyone and read and presented the guests with a Proclamation. He said in 1990, President George Bush approved a joint-resolution designating November 1990 as National American Indian Heritage Month. Since 1994, proclamations have been issued each November commemorating this, in the United States; honoring the accomplishments and cultures of American Indians and Alaskan Natives and recognize their contributions to our country. He said the new National Museum of the American Indian opened in September 2004, in Washington D.C. to help educate Americans and illustrate the important role of these native people to our nation. They played a unique role in the shaping of our nation's history and culture. They have made remarkable contributions to our National, State, and local identity. Purcell said their unique, spiritual, artistic and literary contributions together with their vibrant customs and celebrations enliven and enrich the Lawton-Fort Sill community.

Delores Twohatchet said she is Comanche and Kiowa and she and Ms. Pahdopyony teach at the Comanche Nation College. They are located at the old Will Rogers School. They are working with their sister school, Cameron University and gives accolades to Dr. Cynthia Ross who has been supportive of the programs. She said it is not just for Comanches, anyone who can enroll at Cameron can enroll at the Comanche Nation College. She said we all share this little piece of earth. She talked with their Chairman, Wallace Coffee about what was being done tonight and he encouraged them and said that is one thing they really want to do; to work together with the community because everything here with the Comanche and other tribes, is for the community. She said they want to share those things with everyone. She said there are about 500 tribes in the United States and each tribe is distinctive. They have their own language, culture, history, traditions, tribal government, and everything. She said they are always willing to share. Every weekend there are Pow-Wows, dances, and celebrations open to all the community and she encouraged everyone to come, that they are always welcome. She presented some calendars from the National Indian Museum in Washington D.C. that recently opened, to Mayor Purcell.

Purcell asked Mr. Ed Alexander to come forward at this time. He said Alexander is involved in safety and is one of the City's great employees. He provided some information on safety and we have a program where we award people monetary dollar amounts for providing good safety ideas. Purcell said Alexander had been presented with

this and he returned the check because he felt it was his job to always promote safety. Purcell said that s the kind of employees we have working for the City of Lawton. He said Alexander refused to take the money sent him, so he wanted to recognize him in front of the public and presented him with a Mayor s Do What s Right Coin.

AUDIENCE PARTICIPATION:

Bobby Benoit, residing at 1412 Andrews said he and the American Federation of State, County, and Municipal Employees received notice that the City Attorney, John Vincent, violated the privacy of the signed majority of Municipal Employees who signed cards. They, (he and AFSME), asked for the immediate resignation of Vincent and all parties who participated in acquiring these cards. Benoit stated Management Surveillance is prohibited in acquiring information about intent cards. He stated Vincent was on the PERB Committee and should know these provisions. He stated if any employees were disciplined or fired for signing these cards, they would take immediate action. He stated they demand all copies of the signed intenet cards be returned to the PERB Board.

AUDIENCE PARTICIPATION WAS CLOSED AT THIS TIME.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF OCTOBER 26, 2004.

MOTION by Shanklin, SECOND by Ewing-Holmstrom, to approve the minutes of the Lawton City Council Regular Meeting of October 26, 2004. AYE: Givens, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Bass. NAY: None. MOTION CARRIED.

CONSENT AGENDA : Separate consideration was requested for Items # 3, 8, 9, and 10.

Purcell stated to strike item three.

MOTION by Shanklin, SECOND by Ewing-Holmstrom, to approved the Consent Agenda with the exception of items 3, 8, 9, and 10. AYE: Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Bass, Givens. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for denial: Southwestern Bell; Jessica and Brandon Jolley. Action: denial approved.
2. Consider authorizing Mayor to sign a Letter of Intent with the Commissioners of Land Office agreeing to pay \$10,000 (Ten Thousand Dollars and no/100) for an easement that the City of Lawton will need for the North Mile of the Flower Mound Road Project. Action: approved.
3. Consider approving a lease with the Kiowa-Comanche-Apache Intertribal Land Use Committee for the property of the City of Lawton needs for the right-of-way along NE Flower Mound Road, South of Cache Road, authorize payment and authorize the Mayor and City Clerk to execute the lease. Action: **This item struck.**
4. Consider approval of the Retainer Agreement for Legal Services between the City of Lawton and Neil West and authorize the Mayor and City Clerk to execute the Agreement. Action: approved.
5. Consider approval of the Retainer Agreement for Professional Services with CH2M HILL, INC., to provide professional engineering services to the City of Lawton and the Lawton Water Authority in defense of the lawsuit styled Comanche County Rural Water District No. 1, et al. v. City of Lawton, et al., and authorize the Mayor and City Clerk to execute the Agreement. Action: approved.
6. Consider authorizing a Resolution of Necessity for real property acquisition for the School House Slough Restroom, Lift Station and Force Main Project 2001-17. Action: approved.
7. Consider approving a proposed settlement agreement in Comanche County District Court case City of Lawton v. Art G. Mata, Armando G. Mata et. al., CJ-2003-882, authorize the Mayor to execute the agreement, and authorize the City Attorney to file any necessary documents with the district court to effectuate the settlement. Action: approved.
8. Consider entering into a contract with the Fort Sill Apache Tribe of Oklahoma for fire protection on property not within the jurisdiction of the City of Lawton.

Patton asked what do they do in the meantime, since their contract expired on July 25, 2003. Hadley said they have continued to respond. They have a deposit with the City but haven t had to get into it because they ve continue to pay as if still under the contract.

MOTION by Patton, SECOND by Haywood, to approve entering into a contract with the Fort Sill Apache Tribe of Oklahoma for fire protection on property not within the jurisdiction of the City of Lawton. AYE: Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Bass, Givens, Devine. NAY: None. MOTION CARRIED.

9. Consider adopting a Resolution to continue the appointment of Mr. Buddy Green to the Code Review Committee.

Ewing-Holmstrom said she pulled both 9 and 10 for the same reason. She asked if there has been a situation where we have adopted a resolution to allow someone who didn't live within the city limits to be on a committee that requires them to live within the city limits. Purcell said yes we have done one on Lakes and Lands before.

Warren asked if they could act on items 9 and 10 together. Vincent said they could.

MOTION by Warren, SECOND by Haywood, to approve the appointments of Buddy Green to the Code Review Committee and Rick Richards to the Impact Fee Committee. AYE: Shanklin, Patton, Haywood, Warren, Bass, Givens, Devine. NAY: Ewing-Holmstrom. MOTION CARRIED.

10. Consider adopting a Resolution to allow the appointment of Mr. Nick Richards to the Impact Fee Committee. Action: approved.

11. Consider approving appointments to boards and commissions as shown on the exhibit to this item. Action: approved.

12. Consider adopting a resolution authorizing active duty Lawton police officers to serve while off duty as reserve campus police officers for Cameron University's Office of Public Safety. Action: approved.

13. Consider approving Change Order No. 1, accepting the Lake Ellsworth Gate Repair Project #2004-1 as constructed by Bowen Construction, Inc., and placing the Maintenance Bond into effect. Action: approved.

14. Consider approving a resolution amending the FY 2004-2005 budget to increase the appropriations allocated to the Fire Department salary accounts in the General Fund. Action: approved.

15. Consider approving a resolution amending the FY 2004-2005 budget to increase the payments of Hotel/Motel Tax collections to the Lawton Chamber of Commerce and Industry. Action: approved.

16. Consider a Resolution approving action taken by the Lawton Water Authority of preliminary authorization for Lawton Water Authority (the Authority) Sales Tax and Utility System Revenue Bonds, Series 2004 (the Bonds) in the aggregate principal amount of not to exceed \$12,000,000; authorizing the staff, financial advisor and bond counsel to negotiate with underwriters; waiving competitive bidding; approving the preparation of a preliminary official statement pertaining to said bonds and authorizing distribution of the same; and containing other provisions relating thereto, and take action. Action: approved.

17. Consider approval of payroll for the period of September 27, 2004 through October 10, 2004. Action: approved.

BUSINESS ITEMS:

Purcell asked for Council's approval to go out of agenda order at this time and move to item #27 due to the large amount of people in the audience. Council agreed. Council went to item #27 at this time.

18. Consider accepting a donation of \$1,000.00 from the Wal-Mart Foundation to the Lawton Fire Department for the purchase of forcible entry/extrication tools.

Fire Chief Bart Hadley introduced Mike West, Store Manager from our Super Center West, who had a donation of \$1,000 to the Lawton Fire Department for the purchase of forcible entry/extrication tools.

West said the money is not donated to get recognition, but more of the recognition should go to our fighting men and women who are fighting for us everyday and anything Wal-Mart can do to help that cause, we will do.

Purcell thanked West, Wal-Mart West, and the Wal-Mart Foundation, on behalf of the citizens of Lawton and the Lawton City Council for supporting the City as much as they do.

MOTION by Patton, SECOND by Warren, to accept a donation of \$1,000.00 from the Wal-Mart Foundation to the Lawton Fire Department for the purchase of forcible entry/extrication tools. AYE: Givens, Devine, Patton, Haywood, Warren. NAY: Ewing-Holmstrom, Shanklin. MOTION CARRIED.

*Bass was out of the room during the vote.

19. Hold a public hearing and consider an ordinance changing the zoning from R-1 (Single-Family Dwelling

District) to C-1 (Local Commercial District) zoning classification located at 1923 West Gore Boulevard.

Deborah Jones, Acting Planning Supervisor said this is a rezoning request for Lot 17, Block 5, Lee Addition, submitted by Mr. Ross, the attorney on behalf of the property owner, 502 Inc. She said they also own Lots 18 and 19. The zoning of the surrounding area is R-1 to the north and west and C-1 to the south and east. The land use of the surrounding is Single-Family Residential to the north and west and Commercial, which includes Ramon s Flowers, Fins N Critters, and Burton Realty, and vacant and a daycare center to the east. She said the 2025 Land Use Plan designates this area as commercial. The applicant has submitted a Site Plan and indicates the desire to build a 60 x 100 office building, with parking and two drives on Lots 17, 18, and 19. On October 14th, the Planning Commission held a public hearing on this issue and voted 8 to 0 to recommend approval of the rezoning request. No one spoke for or against the request, Notice of Public Hearing for tonight s hearing was mailed on October 19th to 37 property owners, and notice has been published in the Lawton Constitution.

Ewing-Holmstrom asked what the two lots next to this were. Jones said they are vacant lots which are owned by this owner and include the three lots in the Site Plan. Ewing-Holmstrom asked if the other two lots next to it were vacant as well. Jones said she didn t think so, that there were still houses on them, but they are the balance of the residential property in that block.

Devine said he doesn t understand we are still spot zoning and don t go ahead and finish that block out.

Purcell said the owners that own the rest of it haven t requested that yet and asked Jones if that was correct. Jones said yes, that is correct.

PUBLIC HEARING OPENED AND CLOSED WITH NO PARTICIPANTS.

MOTION by Shanklin, SECOND by Ewing-Holmstrom, to approve **Ordinance No. 04- 40** changing the zoning from R-1 (Single-Family Dwelling District) to C-1 (Local Commercial District) zoning classification located at 1923 West Gore Boulevard.

Vincent read the ordinance title at this time.

VOTE ON MOTION WAS HELD.

AYE: Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Bass. NAY: Givens. MOTION CARRIED.

(Title Only)

Ordinance No. 04- 40

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

20. Hold a public hearing and consider an ordinance amending Section 18-8-1-803 and Figure 1, Chapter 18, Lawton City Code, 1995, by amending the design requirements for curb openings and driveways for public fire and police responder facilities.

Jones said during the design of the fire station at NW 53rd and W. Gore, we found our Code was fairly restrictive on the layout of driveways and the use of Site Triangles. They have amended the Code for Council s consideration. When designing facilities, specifically for fire and police responders who have unique needs, you may need to have wider drive openings, due to the size of the apparatus and the maneuvering and it s alignment with the intersection. Staff recommends amending the Code to allow for these special exceptions, for the limited uses.

PUBLIC HEARING OPENED AND CLOSED WITH NO PARTICIPANTS.

MOTION by Devine, SECOND by Warren, to approve **Ordinance No. 04- 41** amending Section 18-8-1-803 and Figure 1, Chapter 18, Lawton City Code, 1995, by amending the design requirements for curb openings and driveways for public fire and police responder facilities.

Vincent read the ordinance title at this time.

VOTE ON MOTION WAS HELD.

AYE: Devine, Ewing-Holmstrom, Patton, Haywood, Warren, Bass, Givens. NAY: Shanklin. MOTION CARRIED.

(Title Only)

Ordinance No. 04- 41

An ordinance pertaining to zoning amending Section 18-8-1-803 and Figure 1, Chapter 18, Lawton City Code, 1995, by amending the design requirements for curb openings and driveways for Public Fire and Police Responder

Facilities and providing for severability.

21. Consider adopting a resolution declaring certain junk and debris in the yard of 902 NW 51st Street a public nuisance, detrimental to the health, benefit, and welfare of the community; ordering the junk and debris removed; and authorizing the City Attorney to initiate legal action in Comanche County District Court to compel the property owner to abate such nuisance.

Melissa Laycock, Neighborhood Services Supervisor said that has resolved itself. She sent an inspector out yesterday and this morning and the property was abated by the property owner.

Shanklin asked how long it took to abate this nuisance. Vincent asked if Shanklin meant how long it would have taken if this is passed. Shanklin said yes. Vincent said anywhere from 30 to 60 days. That s before we could get it through the court with all the hearings, etc. He said our Municipal Court can only issue fines, they cannot issue abatement orders, only District Court can do that.

Vincent advised this item could be struck if Council desired, since the problem has been abated.

MOTION by Devine, SECOND by Bass, to strike item #21. AYE: Shanklin, Patton, Haywood, Warren, Bass, Givens, Devine. NAY: None. MOTION CARRIED.

*Ewing-Holmstrom was out of the room during vote.

22. Consider approving a credit adjustment to utility account #1001122017 for ABC Transmission located at 2308 SW Lee Boulevard in the amount of \$986.16.

Rick Endicott, Finance Director said earlier this year ABC Transmission has used quite a bit of water and upon investigating this and as a result, we determined that City Moving and Storage was actually connected to ABC s line. So the Revenue Services Supervisor went back and looked at the past bills on both businesses and determined we were being paid twice for the same water. We now have City Moving and Storage on their own meter and their water isn t flowing through ABC Transmission s meter. Endicott said they have gone back five years. This has been going on for about 20 years, as best they can tell. In consulting with the City Attorney, it was decided to go back five years. The five years is what the requested adjustment is for in the amount of \$986.16.

Devine asked if that was for both parties. Endicott said no, just ABC Transmission. City Moving and Storage paid their actual bill, but ABC Transmission was being charged their water and City Moving and Storage. Devine asked where these meters were located. If not, it is going to be feeding through both meters.

Barbara Curran, Revenue Services Supervisor said ABC s meter is out by the street, originally it had been up by the building and they had asked the City many years ago to move it. He thought someone would get hurt because of being up close to his building. His line is out by the street, then the line comes from the meter toward ABC and goes off to the south.

Devine asked again if they adjusted both businesses account. Curran said no, only ABC should get the credit because when they water came through, it came through their meter first, so both usages were being registered on ABC s meter. ABC paid double. Devine said he believes they are wrong, because when both meters are sitting idle and any hydrants turned on is going to pull through both meters.

MOTION by Haywood, SECOND by Shanklin, to approve a credit adjustment to utility account #1001122017 for ABC Transmission located at 2308 SW Lee Boulevard in the amount of \$986.16. AYE: Shanklin, Patton, Haywood, Warren, Bass, Givens, Devine, Ewing-Holmstrom. NAY: None. MOTION CARRIED.

23. Consider authorizing and approving a credit adjustment to utility account #1202170328 for E-Z Go Foods located at 2802 NW Sheridan Road.

Endicott said our Code, as written now, provides for undetectable leak adjustments and in this case E-Z Go received a bill for 540,000 gallons of usage and they tried to determine the cause and they did not find a leak. We tested the meter and it tested slow, so it wasn t the meter that caused the problem because their meter was actually running slow, so they weren t being charged for all their usage. He said that meter has been replaced. He said we don t know how this happened and can t explain it.

MOTION by Shanklin, SECOND by Bass, to approve a credit adjustment to utility account #1202170328 for E-Z Go Foods located at 2802 NW Sheridan Road, in the amount of \$1,623.80. AYE: Patton, Haywood, Bass, Givens, Devine, Ewing-Holmstrom, Shanklin. NAY: Warren. MOTION CARRIED.

24. Consider approving an ordinance pertaining to Utilities amending Section 22-2-1-215, Division 22-2-1, Article 22-2, Chapter 22, Lawton City Code, 1995, by amending Paragraph D, to include additional and more detailed

information regarding leak adjustment requirements, providing severability and declaring an emergency.

Endicott said this item is a request to amend sections in this Code that gives some difficulty and we are also looking at how we do leak adjustments overall. Leak adjustments have become a topic we sometimes don't know what to do with them. They have made a couple changes to the Code. Endicott went over each change in the code relating to leaks. He said he has heard it mentioned several times that the original intent of the leak adjustment ordinance was to deal with the single-family resident who needed help, such as the elderly on social security, etc. Language has been put in there to say the only leak adjustments that will be processed are for single-family residential account holders. This means that commercial, multi-family businesses would not qualify for leak adjustments.

Warren said he likes the way it's written and addresses the original intent to help a resident with an undetected leak and also limiting staff's need to work on these accounts. The whole idea is to touch it less and less, that it takes care of itself. When we make these changes in the Code it helps us to have hard fast rules.

Patton said he agrees, in most part, with Warren but has a concern about limiting that to the single-residents. He said there are other entities out there that should be considered. His other concern was underground undetectable leaks. He was concerned about businesses and what if they had a problem with a meter. Endicott said if there is a problem with a meter, they have recourse and there are other sections in the Code to deal with that. This only refers to a situation where there is some type of leak.

Warren said on water associations, that's the job they took on, as far as the leak, they said they were not going to individually meter these with the City, they're going to have a master meter and they're going to take on the responsibility to make sure that gets metered out and that they get charged for what they are supposed to get charged for.

Endicott said on water associations, if there are individual metered account holders and there's a problem from the meter to their house, they would qualify under this, the association itself would not qualify under the master meter situation.

Vincent said the association and the meter issue is covered in the association contract. This would not affect the association contract at all.

Ewing-Holmstrom asked how will this affect businesses and will it leave them out completely. Endicott said yes, for leaks, if there are other issues, such as meters, etc., but they would not qualify for the underground, undetectable leak situation. Ewing-Holmstrom asked what would happen if a business such as a car wash calls and says they have an undetectable leak what are their avenues. Endicott said their first avenue is to let us know and then we can look at the meter, we can test the meter, there are some things we can do. We are saying in a lot of instances, businesses will not let us know immediately when they get a higher bill and they linger on.

Devine asked with the new equipment if it would basically the same way as ARKLA Gas. If they have a large fluctuation in their water bill, your computer would automatically kick it out. Endicott said we will be able to monitor and know on a daily basis if somebody is having problems with high water consumption. Devine said his problem is it states the service address where the leak occurs must be a single, residential unit. You are not going to have anything in this ordinance where a commercial piece of property has a water leak that can come in for any kind of adjustment. Endicott said he is asking for Council's guidance on this.

Patton said the way it's worded except for the first item. He said if we struck that and allow the rest, we will be ok.

Purcell said we are trying to give guidance on this for them to put in a system that we are going to develop. Anyone can come to the Council.

Vincent said if this ordinance is passed in its current form, there would be no undetectable leak adjustment for apartment, industry, or commercial owned business.

Devine asked why they couldn't, under item D.1, delete item #1. Vincent said you could delete D.1 and then renumber 2 through 9. Devine said he would rather just table it, get it right, and bring it back.

MOTION by Devine, SECOND by Patton, to approve **Ordinance No. 04-43**, pertaining to Utilities amending Section 22-2-1-215, Division 22-2-1, Article 22-2, Chapter 22, Lawton City Code, 1995, by amending Paragraph D, to include additional and more detailed information regarding leak adjustment requirements, to include these changes: striking D.1 and renumbering items # 2 through 9 to read #1 through 8, providing severability and declaring an emergency.

Bass asked about running toilets. Warren said #7 states only undetectable underground leaks. Purcell said not running toilets or leaking faucets. Shanklin said you can tell by looking at your bill if there is a leak or problem.

Vincent read the ordinance title at this time.

VOTE ON THE MOTION WAS HELD AT THIS TIME.

AYE: Haywood, Bass, Devine, Shanklin, Patton. NAY: Warren, Givens, Ewing-Holmstrom. MOTION CARRIED.

(Title only)

Ordinance No. 04-43

An ordinance pertaining to utilities amending Section 22-2-1-215, Division 22-2-1, Article 22-2, Chapter 22, Lawton City Code, 1995, by amending paragraph D to include additional and more detailed information regarding leak adjustment requirements, providing for severability and declaring an emergency.

Purcell stated that item passed 5 to 3, so the emergency clause died, but the ordinance passed and will go into effect 30 days from now.

25. Consider adopting an ordinance correcting a scrivener's error in Sections 22-2-1-218, Water Usage in Chapter 22, Lawton City Code, 1995, providing for severability and declaring an emergency.

Purcell said when we passed the ordinance when we got to a certain level in the lakes, we went to the three stages; the first two stages said I shall and the word may was left in, so this changes the word may back to shall like it should have been.

MOTION by Bass, SECOND by Ewing-Holmstrom, to approve **Ordinance No. 04-42** correcting a scrivener's error in Sections 22-2-1-218, Water Usage in Chapter 22, Lawton City Code, 1995, providing for severability and declaring an emergency.

Shanklin asked why the Mayor would have to be the one to do that if that's administrative. Vincent said the Mayor has to issue a proclamation so we can enforce it in Municipal Court. He said Council's direction was to not have the may in there, but when it was retyped, one was overlooked, so instead of calling it a scrivener's error he asked it to be put back on to Council for clarification.

Vincent read the ordinance title at this time.

MOTION ON VOTE WAS HELD AT THIS TIME.

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

(Title only)

Ordinance No. 04-42

An ordinance pertaining to utilities amending Section 22-2-1-218 Division 22-2-1 Article 22-2, Chapter 22, Lawton City Code, 1995, by correcting scrivener's error, providing for severability and declaring an emergency.

26. Consider adopting an ordinance amending Section 2-1-1-108, Division 2-1-1, Article 2-1, Chapter 2, Lawton City Code, 1995, pertaining to elected office residency, providing for severability and declaring an effective date.

Vincent said we have to codify the entire Code Book next year and have asked Department Directors to review sections they are responsible for and when the City Clerk was reviewing the section cited here, she found some language had been left in there concerning the old At-Large positions that were removed in 1995-1996. This is a cleanup to get rid of the reference to At-Large positions on City Council.

MOTION by Ewing-Holmstrom, SECOND by Patton, approving **Ordinance No. 04-44** amending Section 2-1-1-108, Division 2-1-1, Article 2-1, Chapter 2, Lawton City Code, 1995, pertaining to elected office residency, providing for severability and declaring an effective date.

Vincent read the ordinance title at this time.

MOTION ON VOTE WAS HELD AT TIME.

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

(Title only)

Ordinance No. 04-44

An ordinance pertaining to Elected Office Residency Requirements amending Section 2-1-1-108, Division 2-1-1, Article 2-1, Chapter 2, Lawton City Code, 1995, by deleting the Lawton City Council At Large positions, providing for severability and effective date.

27. Consider adopting an ordinance creating Sections 10-14-1401, 10-14-1402, 10-14-1403, 10-14-1404, 10-14-

1405, 10-14-1406, 10-14-1407, 10-14-1408, 10-14-1409, 10-14-1410, and 10-14-1411, in Chapter 10, Lawton City Code, 1995, to assess and levy, subject to approval of a majority of the voters, a one percent (1%) excise tax on the sale of real estate in the City to be used exclusively on projects that will beautify and aesthetically enhance the appearance of the City of Lawton, providing for severability, codification and declaring an effective date.

Givens said this Council is not imposing any excise tax on anything. The ordinance calls for a vote of the registered voters of the City of Lawton, as to whether or not a tax would be imposed. He said for many years he has felt the city has never looked as good as it could. He said it takes money and there is never enough in the budget for this kind of item. This ordinance would mandate all the funds generated by this excise tax to go to a trust set up by the City Council. The trust would administer the funds and would consist of nine people, one from each Ward and one Council member, all would be appointed by the Mayor and confirmed by this Council. The money derived and administered by the trust could only go for the beautification and enhancement of the City of Lawton. He stated it would primarily be medians, parks, the entryways into Lawton, and up to 25% of the funds to also be spent for revitalization projects and could even go for the purchase of dilapidated structures, provided it is in connection with a revitalization project and provided the ultimate result is enhancement or beautification of the area. Givens said it is his thoughts a lot of this money would be spent on Elmer Thomas Park to continue the Master Plan that has already been developed for that park. He also stated if a local business wanted to apply for a grant to beautify their business with landscaping, etc., they could apply to this Trust for half the cost. He said he believes in the long term. The results of this tax and the beautification will do nothing but increase, overall, the value of property in this town. He said he has been told by doctors who are trying to get other doctors to move to Lawton and refuse to move here. He said not only will this help us in our own aesthetics and beautification, it will be an economic development factor as well, in or to attract people to move to Lawton and attract businesses also. Givens reiterated this was not a tax the Council is doing, it is an ordinance asking for a vote of all the people as to whether they feel it would be worthwhile to impose this tax.

Purcell said there are several people in the audience wanting to speak on this and asked the Council's permission to allow them to speak, with a three minute limit. Council agreed to this.

John Jones, a local realtor, thanked Givens for carrying about the beautification of our city. He said they appreciate how open he has been by visiting with several people. They agree with him except the source of funding. He said many of the home owners in this community are military families and the majority will buy their homes using their VA loans. He said the VA loan means they finance 100% of the purchase price of the property, and a 2% funding fee from VA is added on, so to start with, they have 102% of the value of the property financed. This concerns the realtors because it adds that fee to the sale of the property. By bringing this to a vote of the people, a large majority of those asked to pay the excise tax, will not have an opportunity to vote, nor will they enjoy the beautification this money would go for to enhance our city because they will be leaving our community. This will discourage homeownership to military families. He said we have a BRAC coming up next year and how would it look to a BRAC Committee, who is very concerned about quality of life of for the soldier, to look at this.

Purcell interrupted Jones and asked if there were any in the audience who would want him to continue and allow him to continue to speak on their behalf. There were, so Purcell instructed Jones he had another three minutes.

Jones said he is also a homebuilder and represents the local homebuilders as well. He said we are seeing 2 houses built in the County versus 1 built in the City. If a homebuilder builds 20 houses a year at an approximate value at \$150,000 to \$200,00 and he builds those 20 during a year, under this proposal, this tax would cost him \$35,000 within a year. He asked Council if they were a homebuilder, would they elect to build within the City limits of Lawton or would they go into the County to build. He asked Council not to penalize those who support our community and those who invest in our community. There must be some method of financing this project where all citizens get the chance to participate in the beautification of our community. He asked Council to vote no on this item.

Ewing-Holmstrom said she appreciates everybody being here in support of what's going on at City Council. She said you may not be supporting what we're talking about but are concerned enough to come here and speak your mind and she applauds them for that. But she doesn't applaud anyone who is a realtor who hasn't come here and spoken on behalf of realtors in town when we are up here talking about dilapidated properties that are owned by fellow realtors in Lawton. We have a beautification problem and are trying how to decide how to pay for it. She asked them if they had an alternative source or idea that maybe some of the realtors have come up with that could be shared with Council.

Jones said they haven't been asked to come and participate in that. He said they were asked to be a part of Neighborhood Services on checking the lawn mowings, etc. and up until a year or two ago, the City would contact the Board of Realtors anytime there was a yard overgrown, to find out if that yard was listed by or owned by a realtor. We would immediately contact the realtor and probably in 85% of the cases, have that taken care of. He said that has stopped, but that was a function we were doing as realtor's organization for the City. He said they support what Givens is trying to do, they think the cost of it should be spread throughout the community and not just the local homeowners who sell their property and leave our community.

Lee Whitley residing at 1902 NW Cache Road, is a realtor and spoke about the military homeowners. He said this proposal is forgetting Fort Sill. He asked Council if they had considered the event of BRAC closing Fort Sill. We should be supporting Fort Sill and doing everything we can to support our troops. He said he doesn't feel this is doing that and we should be supporting our troops to enable them to buy houses. He asked Council to support our troops, do away with this, get the funding somewhere else, and not tax the military.

Eddy McCassin, the Executive Boss for the Board of Realtors, said when this first came across his desk the biggest thing he saw in it was the unfairness. He said we are American Citizens and we have been taught since childhood about fairness. He said if we want to see our City being beautified, we need to educate the public that they need to get with it. Part of it is maybe we need to see if they really want to do it. The fairest way is probably a sales tax. Everyone hates the thought of that, but let's see if they want to do it, put it up for a vote on sales tax. We'll see how bad they want their city beautified.

Steve Barnes, residing at 3601 Baltimore, said he represents the Lawton Homebuilders Association. He said they appreciate what's being done and we are all trying to get to the same place. He said they have been trying to work with the City on growth issues. If you have the advantage to go to the County, why would you come into the City? He said Community Facility District Bonds is something that could work. This is a small group being asked to pay for problems for everybody. The guys in Oklahoma City did it with maps.

Bass asked if this 1% Sales Tax happens anywhere else in the State of Oklahoma. Givens said it doesn't.

Barry Ezerski residing at 2810 NE Scottsdale Circle, said one of the things you have to realize in our community, with the VA loan and transit nature of the military, and other folks as well, we have a fairly high foreclosure rate here. That is one of the aspects that causes problems with houses becoming dilapidated and run down. People stop making payments on their houses, the houses start going downhill, and there are neighborhoods all over town that we get calls from people wanting to know what they can do about a house that a bank is in the process of foreclosing. One of the problems when people try to sell houses is a lot of these military guys are tight when they try to turn around and sell their houses. If they see there is no hope for them, they may just let it go. He said one of the fastest growing industries in the real estate business is the rehab business. They are doing this for a profit, but it also does the city a service because it is making these dilapidated homes a lot better and more aesthetically pleasing in those neighborhoods. This tax would have a direct impact not only on the builders, but on these folks as well. He said it's not fair to have those few people bear the brunt of this tax.

Daisy Cristen, the President of the Lawton Board of Realtors, said she is here to ask Council to reconsider this. She said the military is at least 50% of the buyers and this will be punishing those who work hard to own property. Most of them don't make a lot of money and have to bring money at closing and this would be a big fee.

Kim Shahan, 7728 NW Chesley Drive and has been a resident of Lawton over 35 years. He said in six years this subject is consistently the topic he has to deal with everyday and it seems like, for the first time in those six years, someone has brought something to the table that is an interest to the public, but we do need to find out the method in which we can address the financial issues concerning this. He said he is commending one of our Council members because this is something his department deals with daily and are criticized daily and he feels like there needs to be something done in reference to this because it does affect our community as a whole. He encouraged the realtors there that when something comes before them in the future, to try to address this and give them their opportunity to give input, that there will be that many people here to assist in trying to address this.

Givens said on the website of the National Association of Realtors is a chart that shows Summary Real Estates Transfer Taxes by State and it lists 35 states, or localities that impose some type of transfer tax and he presumes there are many military installations in some of those 35 states. He said he understands the fairness issue, but it's not our problem that VA lets you finance 102% of the loan as well. He said there is never going to be a source of funding for this kind of work. It is his hope that a lot of this money would go to make the current park situation as maintenance. He said he would be inclined to reduce the 1% to % if the realtors would agree to support this measure and take it to a vote of the people.

Devine said he thinks Givens idea is great and we really need the beautification of Lawton, but his biggest problem is the source of income that we are going to try to do this and he doesn't think it's his place to sit here and penalize what few people are able to buy and sell houses in the City of Lawton. He said he thinks the City should come up with a source to come up with the money to do it. He said he cannot support this.

Shanklin asked about the two to one and was there any reason for that, other than they just don't like the City of Lawton or is it because they want to move out to the country. That may be their choice because they want to live out in the country. He said he didn't have any qualms about it when Givens called him because he has been trying to get Lawton to get cleaned up. He said we are not getting anywhere. He said his concern was a realtor told him that 60% of all sales were by military and many of those can't afford it and have to bring money to sell their house. Mainly because of that he said he wouldn't be able to support this. The military is why we're here.

Warren said there are compromises to be made, but the instantaneous negativity points to a direction that we're definitely not every going to be able to compromise. He said the second thing is he has a real problem with a whole group of people who are afraid to let the citizens of Lawton vote. He said that's what they are saying. He said he understands the realtor's point of view, but he doesn't understand the point of not wanting the citizens to vote. He would like to sit down with everyone and find a compromise that we can all live with.

Patton said he had a lot of reservations also. He said after hearing them talking about this tonight, but if, as their realtor, shouldn't they advise against something like that to their clients. He said you don't have a problem when you sell the property, but when he turns around to sell it, you want to feel sorry for him when he goes and has to borrow money at the closing. He said that's not his problem, they just want to make a sell. He said to spare all the talk about the poor soldiers and stuff like that.

Devine said if we take it to a vote of the people, the biggest percentage of those who would vote on this are not the people who are going to be taxed. He said he thinks we are asking people who are really not involved with the taxation to vote for or against it. The people who are actually involved in it really don't have an opportunity because most of them are not even registered voters in this area. He said it's not a fair vote.

Bass asked why we hand-picked one group of people. He asked if there weren't other groups out there that could be added to this. Why are we just picking the realtors?

Givens said all the real estate, transfer taxes that are imposed throughout the country are generally used to improve and enhance open space, parks, and projects that will, in the long term, result in improving property value.

Shanklin said he really appreciates what Givens has done, but we're not going to win it because they are not going to help us. They don't live in the Central Quarter, they don't live in the areas that are blighted and they could care less. He said there is bound to be some way we can do something to clean it up.

Warren said there will be about 8,000 people voting at that election and those are the people who live in Lawton. Those are the people who live in the blighted neighborhood who have no other help. He said not one of his many callers asked to talk about this and make a suggestion, he just heard no, we can't do that.

Ewing-Holmstrom said we have heard some different statistics and asked if anyone had legitimate statistics of how many people who are military actually purchase homes in the United States. She commented that everybody's concerned about the military and since being on the Council she has received many calls from military people who have been taken advantage of by realtors and rental companies. She said she is all for looking out for our military, if it wasn't for Fort Sill, we would just be another town on the way to Wichita Falls. She said we should let the citizens decide.

Haywood said he has not had one person from his Ward call him asking he vote for this. His constituents told him not to vote for the 1% tax. He said he does care about this city and we do need to clean it up.

Warren asked for anyone's help. He said he didn't understand why we couldn't come together on this, offer it to the people, and let them decide.

MOTION by Givens, SECOND by Ewing-Holmstrom, to approve Ordinance No. 04-40 creating Sections 10-14-1401, 10-14-1402, 10-14-1403, 10-14-1404, 10-14-1405, 10-14-1406, 10-14-1407, 10-14-1408, 10-14-1409, 10-14-1410, and 10-14-1411, in Chapter 10, Lawton City Code, 1995, to assess and levy, subject to approval of a majority of the voters, a one percent (1%) excise tax on the sale of real estate in the City to be used exclusively on projects that will beautify and aesthetically enhance the appearance of the City of Lawton, providing for severability, codification and declaring an effective date.

AYE: Warren, Givens, Ewing-Holmstrom. NAY: Shanklin, Haywood, Bass, Devine, Patton. MOTION FAILED.

Council took a five minute recess at this time (7:25 p.m.) . and reconvened in regular, open session at approximately 7:30 p.m. with roll call reflecting all members present.

Council went back to the agenda order to item #18 at this time.

28. Consider discussing a possible revision to the City Charter to conform with state law regarding municipal election dates and the dates that newly elected officials take office and provide direction to staff.

Vincent said at the last legislative session, the State Legislature passed a statute mandating that even for Charter Cities, that the election dates established by State Statute, Title 26, Section 3-101, establishing which dates during a year that anybody can have an election. They established that those election dates would apply even to Charter Cities, no matter what the Charter said for election dates. Our Charter says it's the second Monday in March, the third Tuesday in April, with the swearing in of Council Members on the first Monday in May. In reviewing Section

3-101 to Title 26, those are not available election dates every year and we have a Council election every year. This statute doesn't go into effect until July 2005, so for the coming up elections this spring, it doesn't have any effect on our dates. We are looking at possible revisions that would take effect, if the Council so chooses, after July 1, 2005. There is a timeline, if the Council approves the Charter change it does have to go to a vote of the people, which requires the 60 day notice to the State Election Board. If the citizens approve the Charter, it has to be put in a certain form, submitted to the Attorney General, reviewed by the Attorney General, then submitted to the Governor for signature and it doesn't go into effect until the Governor signs it. We are looking at a lag time of 90-120 plus days, looking at the old 96 election for Charter revision on how long it took to get back from the Governor with his signature and we could put those sections into effect. We also have the Municipal Election which will be on March 8th of next year. We don't have to do anything. If we don't do anything, we will automatically, for example, the 2006 Council Election, the filing period would be in January instead of February, the Primary Election would be in February instead of March, and the General Election if one is necessary, would be on the first Tuesday in April rather than the third Tuesday.

Purcell said the problem with that is, you have a State Law that says one thing and the City Charter says something else. You have different times that you are going to be able to hold it in different years. This is a mess caused by the legislature and we are stuck with it. While we are changing the Charter there has been talk before about trying to get Council Members seated prior to May, so they have more time to understand and work on the budget. We've talked about having the election, if we change the Charter, on the second Tuesday in December. If there has to be a run-off, that's going to wind up on the second Tuesday in February and then whoever won the election could be seated on the first Monday in March, which would back us up two months and puts new Council Members here for March and April to start working on the budget instead of having the old Council look at it. The effect on Council would be, except for next year, their normal term would be cut short by a few months and everyone would be caught in that. If we don't do this, someone is going to have to keep tract and it is a mess. The recommendation is to change the Charter and we would have to do this through a vote of the people in March, and change the Charter to have the Primary Election date on the second Tuesday of each year in December, the General Election, if needed, would be on the second Tuesday in February, and the new Council would be seated on the first Monday in March.

Shanklin asked when our Charter has preference over State Statute. Vincent said normally it does have preference over the State Statute, however, with the new legislative act that was passed, the legislature stated in Senate Bill 1346 that the elective date for Charter Cities, if they use the State Election System, which our Charter says we will use, would be on the date specified by the State Statute. He said we can, as a Council, comply with the State Statute without having to change the Charter.

Vincent said the other thing that needs changed in the Charter is we are no longer allowed to collect the \$100 filing fee, which we have done administratively.

Ewing-Holmstrom said she would like the dates that will get us on the same year, same month, every year, instead of alternating back and forth.

Purcell said if you agree with that concept, Vincent will bring back a Charter Amendment that we will send to the vote of the people. We really don't need any action on this, but we needed some guidance on what the Council wants.

29. Consider receiving a report on the City's financial condition for the 1st Quarter of fiscal year 2004-2005, and provide direction to staff.

Endicott reported on the City's financial condition for the 1st Quarter of fiscal year 2004-2005, which equates to 25% of the year. He said on budgeted revenue we have collected approximately 26%, which is \$12.5 million. On the City Sales Tax we are up about 3.55% over last year and have collected approximately 25.21% of our Sales Tax Budget. He reported that Franchise Tax is up 5.47% as compared to last year and have collected 21.75%. Police Fines and Bonds are up \$230,777 or 58.11% as compared to last year. All other General Fund revenue is down about 11% and we have collected about 24.11% of all the other miscellaneous revenue. He said we are very close to where we were last year in collections.

Ewing-Holmstrom asked about the \$4,000 difference in the Recreation Revenue. Endicott said he saw something about that and it had to do with our camping fees or something like that. He said he could get that information for her. Ewing-Holmstrom said she was just curious and the increase was great. Mitchell said we had a couple major softball tournaments this summer and that may have helped increase the revenue.

Shanklin asked when they would know on the water revenue. Endicott said this next quarter he thinks we will see a decline as compared to last year. We are right on target as to where we need to be in the budget, but when compared to last year's revenue, we are going to see a decline. We are down about \$90,000 or so compared to last year. Shanklin asked how much money has been collected for the water bills in August. Endicott said he has for September in this report and for September 2004 we collected \$1,154,000. In September 2003 we collected \$1,323,000 for that particular month. He said year-to-date we have collected \$3,310,878 for this fiscal year. Last

year at this same time we collected \$3,393,000.

Shanklin said in August 2003 we treated a daily average of 26.7 million gallons a day and in August 2004, we treated 20.8 million gallons a day. That is six million gallons times 30 is 180 million gallons that we are not going to get money for. Endicott said part of the August bill would not be reflected in this report. If a meter was read at the end of August, it won't show up until the October revenue.

Endicott said Water Revenue is down 2.4% compared to last year, so we have collected 28% of our budgeted revenue. He said Sewer Revenue is up 112,000 or 10% and have collected about 25% of that. Refuse Collection is up just under 1% and have collected 24%. The Landfill Revenue is down 2.49% and have collected a little over 25% of our budget.

Ewing-Holmstrom said she noticed the Zoning and Plat Fee is way down and leases and rentals are also way down. Endicott said some of this you have to take into consideration timing. He said he really couldn't answer that.

Endicott reported next on the Expenditure Side of his report. We have expended 22.5% of our General Fund Expenditures and for Enterprise Fund we have expended 21.72%. He believes we are right on target with budget and agreed with Shanklin and the point he made. We are going to have to really watch our revenue in the future based on water treated. He said he had been asked by one Council Member to try, in the future, to give a comparison to where we were this time last year as far as percentage of dollars collected, which would help give Council a bases to know how we are doing compared to last year. He said he would be trying to do that in the future. He asked Council to let him know if there were any other information they needed in these finance reports.

REPORTS:

Warren thanked Neighborhood Services for the list of dilapidated fines and others. He has been wanting to see that for a long time and it's very helpful for Council to receive. He asked if it was Council's feeling that we want to start doing blocks at a time on re-zonings. He said it should be limited to arterials. We know those properties are going to be commercial. It doesn't do anything to the value of the residential property that we change to commercial, except possibly make it worth more. He said he doesn't believe the residential property is ever going to be worth more as residential property if it's on an arterial. He asked if it was Council's feeling that we need to do that and if we do, we need to make some type of hard and fast rule so staff doesn't have to guess.

Mitchell said you typically do that in your Land Use Plan, which addresses land uses in a broader scope and the background for that item tonight included the discussion that under the 2025 Land Use Plan that half block was determined to be commercial in use. He said the issue you run into is that you have a policy issue with respect to the property owner's interest and does the Council predetermine what that zoning should be based on the uses around it or should it be something the property requests.

Warren said that's what he's asking Council. He said his opinion is if it's on an arterial we're rezoning it a block at a time.

Patton said he has a problem zoning things that belong to other people if they don't really request it.

Vincent said what you are talking about under the statute is called administrative rezoning and there are different notice requirements for administrative rezoning, including publication to the paper with a map. The property owners would have an opportunity to come in and speak what they want. You can't take one like tonight and enlarge it.

Haywood said one of his constituents, Mrs. Johnson, passed away, she was about 85 or 88 years old. She graduated from Douglas and her late husband was Rubin Johnson. He was probably the first African American to play golf here in Lawton. He also worked at Johnson's Bakery for many years.

Patton said Coach James Henderson passed away and was his coach at Park Lane. He was a great influence on kids.

Shanklin said he paid \$1,149 for the asphalt the City Street Division put down in his alley. He said they did a really good job and invited everyone to come by and look at it. He said Eddie Barbee constituency required as to why it was being done and who was paying for it. He said the City knows he paid for that. He said they have had 25 citations in Ward 5 with fines of \$1,680 in four months. He asked Endicott about expendable income from sales tax and why can't we figure out how the casinos are hurting us directly. There has to be some way we can figure out just what these casinos are doing to us. Endicott said prior to the casinos being here, we wouldn't collect any of that anyway. He said he doesn't understand how the casinos can hurt our sales tax we collect at the City. He said if our sales tax is down, then expendable income is being spent out there and expendable income is how we get our sales tax. Endicott said there is another way to look at this. He personally knows people who have done very well there and have gone into town and spent their money.

Ewing-Holmstrom pointed out that MacArthur High School is doing fantastic again this year in football.

Bass announced that it has been an honor serving with the Mayor and Council. He said he has made so many friends at the City and it s been an honor serving the City and his pleasure and will never forget anyone. He said his door will always be open at the State level. He said he ran for State Senate District 32, won the election, and won the recount by 51 votes. He said they filed some injunctions on how many dead democrats had voted, how many people voted twice, and how many prisoners had voted, so it s still in the court system, so we won t know anything until Monday.

Ewing-Holmstrom said we hate to lose him, he can do good things for Lawton, but can do great things for the State of Oklahoma.

Bass said he will continue to do what s best for Southwest Oklahoma.

Purcell said it was announced today that the 29 Municipalities and 4 Rural Water Districts are likely candidates to receive low interest loans that are underwritten from the recent sales of State Revenue. The Lawton Water Authority is tentatively scheduled to receive a pair of loans totaling \$32 million. This includes \$22 million for drinking water loan and \$10 million loan for improvements to the sewer system. He said the \$22 million loan for drinking water has an interest rate of only 3.05% and the \$10 million dollar loan for the sewers is only 2.6%.

Purcell said at some point, should Bass resign, the Council, under the Charter has the responsibility to appoint someone to the City Council that will serve until the 3rd or 4th of May. The person who is appointed by the Council must still run again in March of next year, along with anyone else who wants to run. Whoever is appointed, their term will be for two years to complete Bass s unexpired term. He suggested, should Bass resign, we immediately notify the newspaper that we will accept resumes for anyone interested in servicing on the Council. We give them one week to turn in their resumes, distribute those to the Council members, and one week after that, have a special Council meeting. If all goes smooth, we will call the special meeting for Monday, November 22, 2004, invite the people down to speak to Council and when they re done, go into executive session, have a discussion, and come out and select someone that night to fill Bass s unexpired term. We will have the Judge here to swear them in, then the next night, a regular Council meeting, we will have a replacement to sit at the Council table. He asked Council if that was agreeable. All agreed to this.

Purcell said we have someone out here who wants to give us some good news.

Kelly Bass came forward and announced that Randy Bass had been elected for State Senator for District 32.

The Mayor and Council convened in executive session at approximately 9:08 p.m. and reconvened in regular, open session at approximately 10:05 p.m. with roll call reflecting all members present.

EXECUTIVE SESSION ITEMS:

30. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the settlement of the City s subrogation interests in the personal injury case of David Leon Keller, CJ-2002-266, 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 a motion is recommended.

MOTION by Bass, SECOND by Haywood, to adopt **Resolution No. 04- 145** and accept \$1,000 for the City s claim involving the March 16, 2000 accident of David Leon Keller and authorize the City Attorney to sign all necessary documents and endorse the settlement check. AYE: Shanklin, Patton, Haywood, Warren, Bass, Givens, Devine, Ewing-Holmstrom. NAY: None. MOTION CARRIED.

31. Pursuant to Section 307B(4) Title 25 Oklahoma Statutes, consider convening in executive session to discuss Case No. CJ-2004-826, Bankers Trust Company of California, N.A., vs. Frank E. Sales and Helen A. Sales, et al. and if necessary, take appropriate action in open session.

Vincent read the title of Item 31 as shown above. He said Council convened in executive session and after discussion a motion is recommended.

MOTION by Patton, SECOND by Warren, to authorize the City Attorney s Office to file a Disclaimer in the foreclosure lawsuit. AYE: Patton, Haywood, Warren, Bass, Givens, Devine, Ewing-Holmstrom, Shanklin. NAY: None. MOTION CARRIED.

32. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss potential litigation regarding the Oklahoma Municipal Employee Collective Bargaining Act, Senate Bill 1529, and

take appropriate action in open session.

Vincent read the title of Item 32 as shown above. He said Council convened in executive session and after discussion no action is required by Council.

33. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the City Manager s Report and Goals for the City of Lawton and discuss and complete the evaluation review of Larry Mitchell, City Manager, and take action in open session if necessary.

Purcell read the title of Item 33 as shown above. He said Council convened in executive session and after discussion and guidance given to the City Manager, and no action is required at this time.

There being no further business to consider, the meeting adjourned at 10:08 p.m. upon motion, second and roll call vote.