

Meeting of 2004-12-14 REGULAR MEETING

MINUTES  
LAWTON CITY COUNCIL REGULAR MEETING  
DECEMBER 14, 2004 - 6:00 P.M.  
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor John P. Purcell, Jr.                      Also Present:  
Presiding                      Larry Mitchell, City Manager  
   John Vincent, City Attorney  
   Karen Mull, Acting City Clerk

Col. G. Keith Herring, Fort Sill Liaison

Mayor Purcell called the meeting to order at 6:06 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Randy Warren, Ward Eight Councilmember, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:                      Bill Shoemate, 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.

AUDIENCE PARTICIPATION: None.

CONSENT AGENDA: Separate consideration was requested for Item 4.

MOVED by Shanklin, SECOND by Haywood, to approve the Consent Agenda items as recommended with the exception of Item 4. AYE: Givens, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Shoemate. NAY: None. MOTION CARRIED.

1. Consider the following damage claim recommended for approval and consider passage of any resolution authorizing the City Attorney to file a friendly suit for this claim which is over \$400.00: Fatima and Iyad Hamadani (\$1,917.54). Exhibits: Legal Opinion/Recommendation; **Resolution No. 04-161.**
2. Consider approving plans and specifications for the Lawton Police Department Re-roofing Project #2004-16 and authorizing staff to advertise for bids. Exhibits: None.
3. Consider approving Change Order No. 4, accepting Fire Station #5 Relocation Project #2000-17 as constructed by Wicker Construction Co., Inc. and placing the Maintenance Bond into effect. Exhibits: None.
4. Consider awarding a contract for the 2004 Sewer Liner Project #04-3 SSES to Insituform Technologies in the amount of \$443,128. Exhibits: Location Maps.

Jerry Ihler, Public Works Director, reported that another 1,000 feet of 36 pipe will be needed because another section of sewer trunk main has collapsed. This will increase the contract total by \$147,000 as the cost is \$147 per foot. The contract is for the 36 sewer trunk main that is at Bishop and Railroad, then goes south and west to 6<sup>th</sup> and Grand. Haywood asked if easements are in place for the work. Ihler said the existing pipe will be replaced; there is about 3,100 feet that will be done by the open-trench, large-line sewer rehab group, but the Insituform liner will go inside the existing pipe.

MOVED by Shanklin, SECOND by Haywood, to approve the award of the contract for the 2004 Sewer Liner Project. AYE: Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Shoemate, Givens. NAY: None. MOTION CARRIED.

5. Consider approving the following contract extensions: Liquid Aluminum Sulfate (CL04-033) with Industrial

Compounding Inc.; Sodium Bisulfite (CL04-023) with Brenntag Southwest. Exhibits: None. (Contracts, information from previous bid award, and letters of staff recommendations on file in the Financial Services Office).

6. Consider awarding contract for Utility Easement Abatement (CL05-020) to Booker Tree Service. Exhibits: Department recommendation and Abstract of Bids.
7. Consider awarding a construction contract to RCJ Construction, Inc., for the McMahon Park In-Line Hockey Rink Project #2002-7. Exhibits: None.
8. Consider approval of appointments to boards, commissions and trusts. Exhibits: List of recommended appointees. Human Rights & Relations Commission: Pamela R. Wynn, Term: 12/14/04 to 4/26/07.
9. Consider approval of payroll for the period of October 25, 2004 through November 7, 2004.

#### BUSINESS ITEMS:

10. Consider approving and accepting the \$5,000 from the U.S. Department of Health and Human Services Community Services Block Grant Act for the Student Civic Council (SCC) Youth Grant Training Program. Exhibits: Copy of the \$5,000 check and letter of approval by Great Plains Improvement Foundation.

Kim Shahan, Parks & Recreation Director, said a year ago the Student Civil Council initiated a program to distribute funds to youth agencies. This was initiated through the Laura Fields Trust last year with a contribution to this program for \$5,000. It was a successful venture. The new Youth Services Coordinator, Leroy Giles, initiated contact to establish funding for this year's program.

Leroy Giles introduced members of the Student Council: President Megan Armstrong from Eisenhower; Grand Chair Whitney Lewis; and Secretary Jennifer Jones. He introduced O Dell Gunter who has served as the liaison between the State Department and receiving these funds. Mr. Gunter introduced the Oklahoma Department of Commerce official who administers these block grant funds. The Commerce official presented the donation on behalf of the Department of Commerce and the Great Plains Improvement Foundation. Mayor Purcell expressed appreciation to those involved.

MOVED by Haywood, SECOND by Warren, to approve and accept the \$5,000 grant from the U.S. Department of Health and Human Services Community Services Block Grant Act for the Student Civic Council (SCC) Youth Grant Training Program. AYE: Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Devine. NAY: None. MOTION CARRIED.

Due to the number of persons in the audience present to address Item 23, it was considered at this time.

23. Consider suspending Council Policy 1-6, City Council Rules and Procedures; and, if suspended, reconsider 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 Article 10-14, Chapter 10, Lawton City Code, 1995, to assess and levy, subject to approval of a majority of the voters, a graduated excise tax ranging from one-quarter percent (.25%) to one percent (1%) imposed on the incremental value of 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 exemptions from the tax, severability, codification and declaring an effective date. Exhibits: Proposed Ordinance No. 04-\_\_\_\_; Proposed Trust indenture for LETA (to be considered by the Council if the tax is approved by a vote of the citizens).

MOVED by Ewing-Holmstrom, SECOND by Shanklin, to suspend Policy 1-6. AYE: Patton, Warren, Givens, Ewing-Holmstrom, Shanklin. NAY: Haywood, Shoemate, Devine. MOTION CARRIED.

Givens said the question of whether to send this to a vote of the people was up before and since that time information has been received and the provision itself has been changed considerably. He said the City can raise revenue only by water bills, sales tax or bond issues approved by the voters; an income tax is possible but no one is proposing that. Givens said Council is allowed by the State Statutes and Constitution to impose certain excise taxes, one of which is an excise tax on the sale of real property. The previous proposal called for a straight 1% excise tax on the whole sale, but the new proposal calls for a quarter of a percent on the first \$50,000, a half a percent on the next \$50,000 and 1% on everything over \$100,000. This would be \$375 on a \$100,000 home; not \$500 to \$1,000 as alleged in the paper this past Sunday. Givens said new construction sold within one year of completion would be exempt so this would not discourage builders from building new homes in Lawton. Building should be encouraged, and most developers either give the City land as a park or in lieu of that they give money, which serves the same purpose as this ordinance.

Givens said according to the realtors, the average sale price of a home is roughly \$80,000, and the amount of tax per transaction would be \$275, which is about a third of the cost to bring an abstract up to date and not too much

more than a house inspection so it is not particularly out of line on the average price of a home. He said he keeps hearing the realtors have another plan but has not heard any details. Givens said he hears that this plan is unfair in that it is taxing a few for the many, and that can be said for many taxes; for example, he had been paying real property taxes for years to support our local schools, although he and many others have not had children in the public school system. He said he was more than willing to pay those taxes because it promotes a better town and a better society. Givens said it is also unfair that our tax money has been used to bring industry to Lawton, yet the tax generated from those industries goes to another school district.

Givens said as to base closing decisions and the effect on the military, Mayor Purcell received a letter from Ret. Col. George Moses, a State BRAC Commissioner, stating, Lawton has historically struggled with short-term, hand-to-mouth or pass-the-plate funding schemes to improve our town. This levy can provide an important, steady source of funds to support long-term projects that improve our town. In my opinion it would enhance Lawton-Fort Sill's quality of life factor in BRAC. It also said he could find no valid BRAC-related basis to object to such a levy.

Givens said there is no question about the need for this proposal. This ordinance does not impose this tax; it calls for a public vote to decide whether the proposal is worthwhile. He said if councilpersons were to oppose this measure because they oppose a tax in general, it seems that would be their prerogative, but to allow a vocal few to keep this from going to the people, he did not understand. Givens said everyone he had talked to personally, save a few realtors, had been very supportive of this measure, even those who are planning to sell their homes in the near future. He said one Board of Realtors board member told him that the realtors could live with the tax, but they were afraid this would open the door for a larger tax in the future. This proposal is for ten years only; this proposal is for a vote of the citizens. He asked that Council not let a few biased citizens dictate to the community what we do and that it is unfair to deny the citizens the right to vote on this measure.

Haywood said he talked to his strong neighborhood association and found that they are not in favor of the proposal and they asked him to vote no. He said if we do not have strong neighborhoods, this will not work, and many people need to get involved in cleaning up neighborhoods. Haywood said neighborhoods such as Brentwood do not need help because they are clean neighborhoods, but Wards 1, 5 and 7, and parts of Ward 3, do need some help.

Mayor Purcell asked that comments be limited to three minutes and said many people wanted to speak. He said Council did not need to hear the same comments again and again.

John Munckasy, attorney for Board of Realtors, 711 C Avenue, said good ideas must be tempered with what we are and what we have, and just because something has been done in another city, does not mean it needs to be done in Lawton. Munckasy said he was at a Rotary meeting today where the speaker talked about 55% or so of the Lawton Public School students receiving either a free or reduced price lunch so there is a bigger problem than saying let's impose another tax. Munckasy said he realized many people eat on a real estate transaction; that does not mean it is acceptable to load it with more. He said buyers and sellers share a lot of expenses, it is getting very expensive, and property values have not risen the way we would like and this will not help. He said the fact that new construction is exempt does not solve the problem. Munckasy suggested people might prefer moving to the county because of this and the builders understand this; it does not encourage homeownership in Lawton and a fairness issue is involved.

Munckasy said the water bill and sales tax are fairer in terms of paying the cost for things that benefit the whole community rather than singling out a small percentage of the population to fund this. He said he heard that part of the grievance dealt with properties listed for sale that are not in good shape, and the Board of Realtors met several years ago with a former City Manager and thought that problem was solved. Munckasy said he understood they were not receiving feedback from City staff to have those things corrected. He said no one is against the proposition to beautify the City but they wanted to see it done in a different, fairer way. Munckasy said there had not been sufficient time for the Board of Realtors to work with the City and the Council to develop another plan. He said he felt a public vote on this issue would go down in flames and there was no need to go through that effort when a plan can be developed that citizens will approve. Munckasy said he had spoken with people who are not members of the real estate community and they do not favor this. He urged Council to vote against the proposition and let them work together to find a more fair way to reach the same goal.

Barry Ezerski, Lawton Board of Realtors, said they did not want to take an adversarial position with the Council, but wanted to work with them and wanted the beautification plan because it would help everyone. He said the Lawton Board of Realtors has set up a committee and he asked for four months for the committee to work out a viable plan. Ezerski said the military would be unfairly affected because when they sell a house, they will not see where this money goes. He said several military families will not be able to vote in the election but they are being affected, and it is not acceptable that so few people pay for the whole. He said a guarantee cannot be given that if this door is opened and we start small on the amount of the tax that down the road, those fees and taxes can escalate, and since the City has only a few places to get money, those fees increase, and that is one of the greatest fears.

Ezerski said they want to work together to find a fair and equitable solution that everyone can support. He said

they did not want to spend money fighting against this and if this goes to the people, unfortunately they would be forced to do so and they did not want to. He asked for time to be able to come up with a better funding plan for beautification.

Ewing-Holmstrom said the Council spends a lot of time discussing dilapidated properties, some of which are owned by realtors, and asked why are the Chambers not filled then with a demand for action because that is part of the beautification of Lawton. Ezerski said they asked the previous City Manager to let them know when those properties were a problem, and if realtors owned them, they would take action against them. Ewing-Holmstrom said some of those realtors are present tonight and suggested the City let the Board of Realtors know what properties are on the D & D list. Ezerski said if it is their people doing it, they would help. Ewing-Holmstrom asked that the list be emailed to the Board of Realtors executive director.

Bill Williams, 3503 NW Ridgeroad Road, developer since 1971, asked that the vote be postponed to allow study of this issue. He said if this would have been in place, the amount generated by the 1% sales from January 1 to December 5, 2004, would have been \$2.388 million. Williams said more information is needed on how much will be generated, where it will be spent, and that much more input is necessary.

State Representative Don Armes said he was a licensed realtor, but was not as active due to his duties as State Representative. He said his concern as a state official was about BRAC, and with all due respect, he tended to disagree with Ret. Col. Moses in that regard. Armes said he had been very involved in trying to make sure our military installations are very protected and Fort Sill is strong and they are trying to add missions and that is important. He urged Council to be very cautious in the perception created for folks like Donald Rumsfeld, who really do not care how your city looks, but do care about the perception of your community being friendly to the military. Armes said 50% of the real estate sales in Lawton proper are military sales, so there is a small chance that it could be perceived by the BRAC folks, which are federal, that we are putting an unfair tax on the military. He urged caution saying this is an admirable goal but possibly a bad direction to achieve it, and that the timing may not be good.

Jay Kinder, licensed realtor, said the majority of dilapidated properties are not owned by realtors and are likely foreclosures and rentals. He said the cost of an average transaction in his office is 12% and adding another percent would mean that those barely able to sell would then not be able to sell, causing more dilapidated and over-grown properties, so this will hinder in the beautification of Lawton. He said more properties would be foreclosed if the owners could not afford to sell them.

A gentleman said his daughter goes to college in Lawton and he planned to move here, he retired from the military, moved to other towns when he got orders to go and paid taxes there while he was there. He said when people stationed with the military get ready to move, they see what the taxes are going to be and he was not a realtor and urged Council to vote no on this issue.

Dale Copeland, real estate appraiser and realtor, 911 SW 11<sup>th</sup>, said he analyzes an affect of an action in his job as an appraiser and gave an example with regard to lead-based paint. Copeland said there has been a recent vote on gambling and it is rumored that some at Fort Sill are upset with the troops for gambling away their money and not paying their bills. There was also a rumor that they would like to take the troops to Fort Hood to get them away from the casinos. Copeland said they need time to analyze the effects this tax may have and asked that it be tabled to allow them the opportunity to study its effect.

Mayor Purcell cautioned against words used in rumor mills because when those are voiced in official meetings, it causes many problems. He asked that rumors not be repeated in such a fashion.

Carles Sowers said he spent four years of volunteer work to make Lawton a better and more beautiful place. He said a tree nursery would help and many people want to donate trees. Sowers said he would donate the first tree and asked how many in the audience would do the same. He said community volunteers to adopt parks could be requested. Sowers said improvements could be made using common sense that would not cost a great deal of money. Ewing-Holmstrom pointed out the need for volunteers for the Boulevard of Lights project, noting difficulty in recruiting volunteers.

Bob Dismuke, 5555 Eisenhower Drive, said someone mentioned that realtors are opposed to this tax because it would impact their commission. He said that certainly is not true, and the price of this tax would be added to the value of the property, which would make greater commissions. Dismuke said they are opposed because it is not a fair tax. He said he noticed an increase in the hotel/motel tax in Oklahoma City to cover things such as this and perhaps that could be examined here so people who visit can pay for this beautification. He suggested finding ways other than taxing the citizens of Lawton.

Robert Roundtree, Jr., 20 SW 25<sup>th</sup> Street, said he did not know what was meant by beautify Lawton. He said he had been advised that beautification was doing something about dilapidated properties, but the City already has the authority to make owners clean up dilapidated property.

Nita Welch, licensed realtor, said was not fair to not allow the military families to vote on this issue and asked that some other way be found. She suggested four or five realtors meet with the Council to find a better way.

Mayor Purcell closed the public comment portion of the meeting.

MOVED by Givens, SECOND by Ewing-Holmstrom, to adopt Ordinance No. 04-46, waive the reading of the ordinance, read the title only.

Warren said we need to get to a place where we are not emotional about this issue. He said if it is placed on the utility bill, the military would not get to vote on it because the Council makes that decision; if it is placed on the sales tax, the military would not be able to vote on that either, so we need to take the emotion out of this and talk about the realities because otherwise, nothing will be accomplished.

Givens reiterated that the proposal is not 1% on all sales but it is a quarter of a percent on the first \$50,000, of a percent on the next, and 1% over \$100,000; an average sale would cost \$275. He said he remembered declaring a nuisance on a property belonging to one of the realtors who spoke. Givens said he did not feel this was an issue of the military or who would get to vote on it, but it is written in the National Realtor s handbook that they are going to oppose this; if this was 1/10<sup>th</sup> of 1%, the same people would oppose it. He said it is not a matter of how much, who is doing it, who is voting on it or who is paying it and who it is fair to; it is a matter of they are just not going to be for it.

Givens said you can talk for months about how to do this, but everyone knows what taxes and revenues are available and spending money on parks and beautification improvements have always been at the very tail end, if at all. He said there are long-range plans to improve parks and he wished there were some other way to do this, but he had been thinking about it for many months and had discussed it with the attorneys and there is no other source for this kind of revenue and that was why he brought it up. Givens said he did believe that most realtors were sincere about this and that they will work on it in spite of whatever happens tonight. He said this will not be a dead issue and it will be brought back up six months from now, if necessary, one way or the other.

Shanklin said he appreciated Don Armes and strongly believed it would have some influence with BRAC somewhere down the line. He asked Col. Herring how he perceived this. Col. Herring said Fort Sill has no official position but he appreciated the concern shown tonight about Fort Sill s viability, for the soldiers and their families. Col. Herring said he did not know what impact this would have on BRAC 05, and much of that is so far down the road that this may have little or no impact on it, but beyond 05, and additional cuts in installations, yes, it may have an impact. Col. Herring said he did not know what the impact would be or how it would be perceived, but it concerned him personally. Col. Herring said he was more concerned about the effect it would have on soldiers, families and their ability to afford homes in the area, to want to buy homes here, and his biggest concern was on the soldiers, many of whom make very little money.

Shoemate said he was concerned that more people would live outside the City limits of Lawton. He said he had been on the school board and watched as industry developed and the funding from those goes to every school district around Lawton, but not to Lawton, which is in need.

Shanklin said he thought a committee was going to be formed. Warren said if this item failed, he would like to have the Council request the Mayor to form a committee of citizens, perhaps with the realtors providing a member, and try to fix this problem. Warren said he wanted something positive to be done in beautification and progress is not being made. Patton asked if a task force was in place for beautification. Mayor Purcell said there is an Environmental Concerns Committee but it does not really fall under this. Patton said he felt a committee would be a good idea. Mayor Purcell said he knew Dr. Bellino had a group working on it and recognized her at this time.

Dr. Rosemary Bellino-Hall, 21 NW 38<sup>th</sup> Street, said she chairs the Mayor s task force to improve the appearance of Lawton, and serves as the president of Lawton Beautiful, Inc. She said we need to make Lawton a quality place to live, and the appearance is very important. Dr. Bellino said the group meets the third Wednesday of every month at the Public Library at 1:30 p.m. and it is well advertised but only a hand-full of people attend and few volunteer. She said Lawton Beautiful, Inc. was developed to work with the Mayor s task force and seek grants to provide funds to do the needed projects.

Ewing-Holmstrom said that she, Dr. Bellino and the Mayor picked up trash during a clean up campaign; the military was working but there were not many civilians volunteering. She said Mr. Sowers said earlier that people would volunteer and donate but that does not regularly happen. Ewing-Holmstrom asked if any realtors attend the environmental/beautification meetings and Dr. Bellino said no. Givens said the Council members do not attend either.

Keith Erwin said Givens met with the President of the Board of Realtors, the Chamber of Commerce executive director and current president, and tried to formulate a plan. He asked how many realtors were present and then how many homeowners were present who were not realtors, and said that shows the point. Erwin said one idea was

having a \$1 voluntary tax on the water bill to allow for donations, and to add a document stamp fee levied by the City of between \$50 and \$150 on each real estate sale. He said this issue should be decided by the 80,000 residents, not by 40 vocal realtors.

Mayor Purcell closed the discussion with the audience. Vincent read the title of the proposed ordinance.

VOTE ON MOTION by Givens, SECOND by Ewing-Holmstrom: AYE: Warren, Givens, Ewing-Holmstrom. NAY: Patton, Haywood, Shoemate, Devine, Shanklin. MOTION FAILED FIVE TO THREE.

Mayor Purcell asked that names for a committee be provided as follows: three from the Board of Realtors, two from Dr. Bellino, one from the Chamber of Commerce, and for Givens to serve.

The Mayor and Council recessed for a five-minute break. The meeting reconvened at approximately 7:40 p.m. with roll call reflecting all members present.

Mayor Purcell asked that Items 17 and 24 be stricken from the agenda.

11. Consider a Resolution approving the incurrence of indebtedness by the Lawton Water Authority (the Authority) issuing its Sales Tax and Utility System Revenue Bonds, Series 2004 (the Bonds) and approving the proposal of the Authority to incur said indebtedness; approving the proceedings of the Authority pertaining to the sale of said Bonds; waiving competitive bidding; approving a Sales Tax Security Agreement and other documents; and containing other provisions relating thereto, and take action. Exhibits: Resolution No. 04-\_\_\_\_. **Resolution No. 04-150**

MOVED by Shanklin, SECOND by Ewing-Holmstrom, to approve Resolution No. 04-150. AYE: Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Devine. NAY: None. MOTION CARRIED.

12. Consider approving Modification P00012 to the Sewage Service Contract with Fort Sill, which establishes rates for Artillery Village. Exhibits: Modification #P00012 to Contract #DABD05-70-C-3506.

Mitchell said the agreement revises the rate to \$5.05 per month per quarter effective January 1, 2005, and increases the annual cost from \$20,460 to \$30,300.

MOVED by Shanklin, SECOND by Haywood, to approve Modification P00012 to the Sewage Service Contract with Fort Sill, Oklahoma. AYE: Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Devine, Ewing-Holmstrom. NAY: None. MOTION CARRIED.

13. Consider awarding a contract to the Sanborn Map Company, Inc. for performing aerial photography services for the Nine Mile Creek Sewer Line Project #2004-5. Exhibits: None.

Jerry Ihler, Public Works Director, said in May 2004 Council authorized proceeding with plans and specifications. As part of the design, authorization was given to move forward with aerial photography and the low bid was \$43,300. A map was presented showing the 15 square miles that are a part of the contract required for aerial photography for the area served by the Nine Mile Creek sewer line. He said the map shows the aerial photography the City already has; however, last time this was brought forward, there were questions about doing aerials for recently annexed areas. He said \$20,000 is available from savings in survey equipment purchases and recommended those funds be used to do aerial photography of six square miles between W 82<sup>nd</sup> and W 112<sup>th</sup> and Rogers Lane and Lee Boulevard. Unit price is \$2,886 per square mile.

Ewing-Holmstrom asked how much of the 15 square miles of this project is in the City limits. Ihler said about 4-1/2 miles are in the City limits and 10-1/2 miles are outside the City.

Shanklin asked if the City controls the sale of water to the area shown. Ihler said no, Comanche County Rural Water District No. 3 sells water to the area near 75<sup>th</sup> Street. Shanklin said he did not want CCRWD 3 encroaching further west than it is now, and it only takes two county commissioners to let them increase the area they want to serve. Devine said Oklahoma City created a fence to keep others from encroaching in that manner and that he had spoken with the City Manager in this regard. Shanklin said there is a need for Lawton to outline its boundaries also. Devine agreed. Shanklin said this whole exercise is to be able to develop the Nine Mile Creek eventually. Vincent said there is an annexation procedure which the Council considered several meetings ago where you create a fence line, and it used to be that the fence line had to be 17 feet wide but since the last time Council considered it, the State Legislature has amended it and fence lines now have to be a minimum of 300 feet, so we would have to re-look at the whole project. Mitchell said it was a new state law last year.

MOVED by Devine, SECOND by Patton, to award the contract to Sanborn Map Company to perform the aerial photography on Nine Mile Creek plus the other six square miles described.

Ewing-Holmstrom said this is just one more step toward annexation, and she knew the aerials were needed, but if funds are invested for aerial photographs for that 10-1/2 mile area that is not part of Lawton's City limits, then we will feel compelled to move further. She asked why a project would be funded that is not in the City limits if there were no plans to annex. She said the Chambers will be full if annexation discussions resume. Shanklin said we are dying on the vine with that kind of attitude where we will not do anything if we are afraid of offending someone. Ewing-Holmstrom said some do not want to be annexed and the decisions made by Council in that regard may have an impact on whether or not a person is re-elected.

VOTE ON MOTION by Devine, SECOND by Patton, to award the contract to Sanborn Map Company to perform the aerial photography on Nine Mile Creek plus the other six square miles described. AYE: Patton, Haywood, Warren, Shoemate, Givens, Devine, Shanklin. NAY: Ewing-Holmstrom. MOTION CARRIED.

14. Consider waiving Council Policy 1-6 to allow the reconsideration of John S. and Sandra G. Cochrane's damage claim, which was denied by Council on November 23, 2004, and if reconsideration is allowed reconsider the denial of the claim. Exhibits: Copy of Claims Memorandum/Recommendation dated November 12, 2004; Copy of John S. and Sandra Cochrane's letter dated December 1, 2004.

MOVED by Shanklin, SECOND by Haywood, to suspend Council Policy 1-6. AYE: Haywood, Warren, Shoemate, Givens, Devine, Shanklin, Patton. NAY: Ewing-Holmstrom. MOTION CARRIED.

Vincent said the Cochrane's did not get the letter notifying them of the date their claim would be heard by the Council and suggested it would be appropriate to allow them to speak. Vincent said he continued to recommend denial of the claim.

Sandra Cochrane, 1104 NW 52<sup>nd</sup> Street, said on August 12 the City sewer line behind their house became obstructed and sewer water ran into their home. She described in detail the damages sustained, steps taken to prevent further damage, and contact with personnel from the sewer crew and the City Attorney's Office. Cochrane said the City reviewed the lines for one segment above and two segments below their property and the City showed there had been one main line problem in the first pipe segment above their property in the last three years. She said that appeared to be notice of a prior problem. Cochrane pointed out the hardships she and her family endured due to the sewer backup.

Devine said he thought there was no notification. Vincent said they cleared a blockage in her segment the day of the report, after Cochrane's flooding, and she is talking about looking at one segment above and two below and there was a problem in the one segment in the three year period. Vincent said Cochrane's service line goes under or over the nearest main and connects across the street and he suggested it be connected at the nearest main when it is replaced. Cochrane said both mains are close to each other and they were not told where the obstruction was. Vincent said it was in the main that services Cochrane's house.

Devine asked if an amount had been determined. Vincent said yes, \$12,383.15. Givens asked if Cochrane had insurance for backups of this nature. Cochrane said her homeowners insurance does not cover sewer line backups. Givens said it is available for \$50 per year and it might be a future consideration. Mr. Cochrane said he was told the City was excluded from that by all major insurers because of all of the prior backups. Givens said he was not in favor of paying lost wages. Vincent said this is for depreciation and actual damages.

MOVED by Devine, SECOND by Warren, to pay the claim in the amount of \$12,383.15 and adopt the resolution and approve other necessary documents. AYE: Warren, Shoemate, Givens, Devine, Shanklin, Patton, Haywood. NAY: Ewing-Holmstrom. MOTION CARRIED. **Resolution No. 04-162**

Patton said a person can purchase an endorsement on their insurance policy and perhaps the companies were saying there are no subrogation rights, in other words, if the insurance company were to pay the claim, they would not be able to subrogate against the City and get the deductible back. Patton said State Farm Insurance certainly provides such riders for purchase; it is limited coverage but at least it is something.

15. Consider accepting the sanitary sewerline located along the south side of the 3100 Block of Arlington Avenue for Comanche County Memorial Hospital, an easement, an escrow agreement in lieu of completed improvement, and an escrow agreement in lieu of maintenance bond. Exhibits: Location Map; Easement, Escrow Agreement, and Maintenance Bond are on file in the City Clerk's Office.

Deborah Jones, Planning, said the hospital constructed a new sewer line in anticipation of building the new heart center at the northeast corner of their complex. The sewer line has been inspected and staff recommends it be accepted for dedication. There were two minor deficiencies and an escrow agreement has been posted for those items. The maintenance bond and easement have been received.

Givens said there is a small pond at the corner of Arlington and NW 31<sup>st</sup> which needs repair, as well as street deterioration, and it is all a result of the hospital. Mayor Purcell asked that the City Manager look into those problems.

MOVED by Devine, SECOND by Warren, to accept the sanitary sewer line located along the south side of the 3100 Block of Arlington Avenue for Comanche County Memorial Hospital, an easement, an escrow agreement in lieu of completed improvement, and an escrow agreement in lieu of maintenance bond. AYE: Patton, Haywood, Warren, Shoemate, Devine. NAY: Givens, Ewing-Holmstrom. OUT: Shanklin. MOTION CARRIED.

16. Consider accepting proposal from Oklahoma Municipal Services Corporation (OMSC); through its business partner Comport Network Services & Solutions (CNS). Exhibits: None (Statement of Work Agreement on file in City Clerk's Office).

Kevin Hall, MIS Supervisor, said funds were budgeted in both MIS and Communications for the City to implement its own mail exchange server, which is a vital part of most cities and corporations. He said the project should be done professionally and in a timely manner and he recommended accepting the proposal.

MOVED by Ewing-Holmstrom, SECOND by Haywood, to accept the standard work agreement for professional services from OMSC through its business partner Comport Network Services and Solutions.

Patton asked what this would do. Hall said it would implement a server where the City of Lawton has its own mail exchange server for email rather than using OneNet. Hall said the company will look at it, be on site to implement it, and provide training and documentation. Patton asked if we are buying this from them. Hall said just the services, not the actual equipment. Patton asked if the equipment would be put out for bid. Hall said the equipment and software were bought off of the State contract.

VOTE ON MOTION: AYE: Patton, Haywood, Warren, Shoemate, Givens, Devine, Ewing-Holmstrom. NAY: None. OUT: Shanklin. MOTION CARRIED.

17. Consider approval of a Professional Services Agreement with Jeff Applekamp to provide consultation and lobbying services and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Agreement. \*Item was stricken from the agenda.

18. Consider approving a resolution authorizing and calling for an election in the City of Lawton, State of Oklahoma, for the purpose of setting the dates for the 2005 primary and general municipal elections of the designated City Council seats, setting a ballot title; and authorizing the Mayor to issue an election proclamation. Exhibits: Resolution No. 04-\_\_\_\_; Election Proclamation.

Vincent said the Charter requires the election be held on the second Tuesday in March of each year and a follow-up election on the third Tuesday in April of each year, if one is necessary. The following seats will be up for election next year: Wards 3, 4 and 5 for a three-year term, and Ward 1 to fill out the remainder of Mr. Bass's term, which would be two years. This is the standard election resolution. Mayor Purcell said this will be Resolution No. 04-151.

MOVED by Givens, SECOND by Ewing-Holmstrom, to approve **Resolution No. 04-151**. AYE: Haywood, Warren, Shoemate, Givens, Devine, Ewing-Holmstrom, Shanklin, Patton. NAY: None. MOTION CARRIED.

19. Consider approving a resolution to amend the City Charter to conform the election dates for the Mayor and Council members to the election dates approved by State Statute, eliminate the filing fee for City office and to provide that the Mayor and Council Members are to take office the first Monday in March of each year. Exhibits: Resolution No. 04-\_\_\_\_; Proposed Charter amendments.

Ewing-Holmstrom asked if there was a requirement to get rid of the filing fee. Vincent said a State law was passed years ago but charter cities did not believe it was applicable to them; since that time the Supreme Court has determined that municipal elections are a matter of public concern, therefore, there should not be a filing fee.

MOVED by Givens, SECOND by Ewing-Holmstrom, to adopt **Resolution No. 04-152**. AYE: Warren, Shoemate, Givens, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

20. Consider adopting a resolution setting the date for an election for the purpose of consideration of amendments to the Lawton City Charter concerning election dates and amending the date when the Mayor and Council Members take office. Exhibits: Resolution No. 04-\_\_\_\_.

Vincent said this item sets the date for the election.

MOVED by Givens, SECOND by Patton, to adopt **Resolution No. 04-153**. AYE: Shoemate, Givens, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren. NAY: None. MOTION CARRIED.

Ewing-Holmstrom asked if this would affect the upcoming election or 2005. Mayor Purcell said everyone would have their term shortened by a few months because there will be an election in March for the four seats they just talked about, the next election for the next rotation instead of being in the following rotation in March 2006, will



happen in December 2005, so those already on will have their terms shortened. Mayor Purcell said they had to pick certain months available under State law and these months would allow Council to be seated two months early to provide more familiarity before the budget process begins.

21. Consider approving a resolution to change the name of the City of Lawton to the City of Lawton-Fort Sill. Exhibits: Resolution No. 04-\_\_\_\_\_.

Mayor Purcell said he brought this up because many people think the official name of the City of Lawton is the City of Lawton-Fort Sill. He said in 1998, Fort Sill was annexed and people started using the term Lawton-Fort Sill. Mayor Purcell said the airport's name was changed to the Lawton-Fort Sill Regional Airport. He said we have been saying the Lawton-Fort Sill community, but the documents only reflect the City of Lawton. Mayor Purcell said the sign on the Mayor's car says City of Lawton-Fort Sill.

Mayor Purcell said he did not have a preference as to how the votes goes, and this was not the idea of anyone at Fort Sill, but he had checked with the Commander, and through the Department of the Army, and found no objection. He said there would be no extra cost for the election since it would be just another item on the ballot; if the people want the change, it will happen over a four or five year period, there is no hurry with the transition. Mayor Purcell said it would allow people to use up their stationery stock before having to change names; we will not change all of the vehicles, patches on the officers uniform until we move along, and gradually get into it. He said the Chamber talks about Lawton-Fort Sill, which is confusing when it is not Lawton-Fort Sill.

Ewing-Holmstrom asked if there was conversation with the Department of Transportation about the signage on the interstate that just refers to Lawton. Mayor Purcell said he understood they would agree to make changes as needed. Ewing-Holmstrom said there would be no Lawton if it were not for Fort Sill because of General Lawton.

Shanklin said over the years he had said many times that As Fort Sill goes, so goes Lawton. He said Lawton is contiguous with Fort Sill and he knew that Mary Evans wanted it to remain Lawton and he was not changing it but only giving people an opportunity. Shanklin said he wanted to name it NIMBY Fort Sill Oklahoma because we do not want to privatize anything, annex anyone, add any taxes or clean up Lawton, so he wanted that as a motion. Mayor Purcell said that would die for lack of a second.

MOVED by Ewing-Holmstrom, SECOND by Warren, to approve **Resolution No. 04-154**.

Mayor Purcell said this will be an item on the March ballot to decide whether to make a Charter change to the name to Lawton-Fort Sill, or to leave it as Lawton.

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

22. Consider approving a resolution authorizing and calling for an election in the City of Lawton, State of Oklahoma, for the purpose of considering changing the name of the City, setting the dates for the election, setting a ballot title; and authorizing the Mayor to issue an election proclamation. Exhibits: Resolution No. 04-\_\_\_\_\_; Election Proclamation.

MOVED by Patton, SECOND by Ewing-Holmstrom, to pass **Resolution No. 04-155**. AYE: Haywood, Warren, Shoemate, Givens, Ewing-Holmstrom, Shanklin, Patton. NAY: Devine. MOTION CARRIED.

24. Consider approving a resolution authorizing the calling and holding of an election in the City of Lawton, State of Oklahoma, for the purpose of submitting to the registered qualified electors of said City the question of the approval or rejection of Ordinance No. 04-\_\_\_\_\_ of the City relating to a graduated excise tax ranging from one-quarter percent (.25%) to one percent (1%) imposed on the incremental value of the sale of real estate in the City and defining the purposes for such tax including specified City purposes, establishing the duration of the excise tax and authorizing the Mayor and City Clerk to execute the Proclamation. Exhibits: Resolution No. 04-\_\_\_\_\_; Proclamation. \*Item was stricken from the agenda.

#### REPORTS:

Devine said he planned to run for re-election for the Ward Three Council position.

Shanklin asked if there was a way to stop cell phone use while driving if a headset is not used. Ewing-Holmstrom said she found that could not be done.

Patton said there was a pictorial editorial about high water at 72<sup>nd</sup> Street and Taylor recently and Public Works is looking into that. Patton mentioned yielding to oncoming traffic for left turns. Mayor Purcell said at Flower Mound and Gore Boulevard you can only turn left going all four directions when there is a green arrow.

Haywood said Edna Hennessee was recently on the Dr. Phil show and that he wanted to recognize her for her

accomplishments and her contributions to Lawton.

Warren wished everyone happy holidays and asked everyone to be careful traveling.

Mayor Purcell said Santa Shops Lawton is Saturday at 10 a.m. at Cameron University. The grand prize is \$10,000 in cash. Mayor Purcell wished everyone happy holidays and said he would be gone from December 31 to January 4 and that Warren is Mayor Pro Tem. Mayor Purcell distributed commemorative items. Devine noted they say City of Lawton.

#### EXECUTIVE SESSION ITEMS:

25. Pursuant to Section 307B1, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the procedures to be followed in the appointment of a new City Clerk and discuss the appointment of an Acting City Clerk, and in open session take any action necessary, including authorizing execution of an agreement for the services of an Acting City Clerk as appropriate.

Exhibits: None.

MOVED by Givens, SECOND by Warren, to convene in executive session following a five-minute recess. AYE: Warren, Shoemate, Givens, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

The Mayor and Council convened in executive session at approximately 8:40 p.m. and reconvened in open session at approximately 9:25 p.m. with roll call reflecting all members present.

Vincent said pursuant to Section 307B1, Title 25, Oklahoma Statutes, the Council convened in executive session to discuss the procedures to be followed in the appointment of a new City Clerk and to discuss the appointment of an Acting City Clerk. He said these discussions did take place, quite lengthy as shown by the time period, and that would conclude his report.

MOVED by Ewing-Holmstrom, SECOND by Warren, to approve an agreement with Brenda Smith as acting, temporary City Clerk in the amount of \$4,250 per month and that Karen Mull be the Acting City Clerk only in the absence of Brenda Smith. AYE: Givens, Devine, Ewing-Holmstrom, Shanklin, Patton, Warren, Shoemate. NAY: Haywood. MOTION CARRIED.

There was no further business to consider and the meeting adjourned at approximately 9:30 p.m. upon motion, second and roll call vote.