

Meeting of 2004-4-27 Regular Meeting

MINUTES  
LAWTON CITY COUNCIL REGULAR MEETING  
APRIL 27, 2004  
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

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

The meeting was called to order at 6:19 p.m. by Mayor Powell. Notice of meeting and agenda were posted on the City Hall notice board as required by law.

ROLL CALL

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

ABSENT:    None

AUDIENCE PARTICIPATION:

Trent Docksetter, owner of 1805 Cache Road, Business High Tech Office Systems, said he would like Council to consider enforcing Code Compliances on the building at 1801 Cache Road. His business is located next to this eyesore. He said the 10 years he has been located there, Bobby Mansell's building has always been in disrepair.

People associate his business with being next to the old dilapidated building on 18<sup>th</sup> and Cache Road. He said the side and back windows have been busted out for years, black mold covers the inside of the back window, three of the front windows have been busted out for almost a year, the front roof is caving in, and dozens of pigeons now reside in the eaves. He said in the last 10 years his business has probably brought in a half a million dollars in sales tax, they employ 25 people, but is embarrassed to conduct business at his office, in spite of the money he has spent redoing the front of his building. He knows of someone who contacted Mansell to try and purchase it and was told the heating and air conditioning doesn't work in that building. He also wanted an unrealistic amount to purchase it. Docksetter said he would like to see the law enforced. Condemn it, auction it, tear it down, he'd rather see a parking lot or an empty lot next to his building, rather than what is there now. He said that building is not the only one of Mansell's properties that are eyesores in this town. He said he would appreciate it if Council would consider sending him a message.

Ewing-Holmstrom asked the Mayor to come up front. She said she wanted to present to him a plaque, on behalf of the Council and the staff of The City of Lawton. She read the plaque, then presented it to Powell.

Powell said thanks and he'd rather just ride off into the sunset where he can fix a little barbeque and do his thing. He said he and his family has truly enjoyed serving the Lawton-Ft. Sill community. They gave it their best shot and it was more than himself alone, it was the family that served the City. He said he is indebted to the Councilmembers, the staff, and all the citizens who became a part of this team and made the things possible that's happened in this City in the last few years. He said thank you and asked that God would bless everyone.

Mitchell also had a plaque to present to Powell. He said it's a tradition here that the City provide you with your City Hall name plaque and the staff would like to thank you for all your dedication.

Mitchell then asked Hanna to come up and presented him with a plaque and wished him the best of luck.

CONSENT AGENDA : Separate consideration was requested for Items #12 and 15.

MOTION by Patton, SECOND by Hanna, to approve the Consent Agenda items as recommended with the exception of Items 12 and 15. AYE: Hanna, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Bass. NAY: None.  
MOTION CARRIED.

1. Consider the following damage claims recommended for denial: Southwestern Bell Telephone Company, James Smith, Russell Moore, and Joddie L. Stephens. Action: approved.
2. Consider approval of the Retainer Agreement for Professional Services with Crawford & Associates, P.C., to provide professional financial services to the City of Lawton, and authorize the Mayor and City Clerk to execute the Agreement. Action: approved.
3. Consider approval of the Retainer Agreement for Professional Services with Anita Breen, to provide professional consultant services to the City of Lawton, and authorize the Mayor and City Clerk to execute the Agreement. Action: approved.
4. Consider adopting a resolution designating places and times within municipal jurisdiction to discharge fireworks on July 3-4, 2004. Action: approved.
5. Consider accepting a Temporary Easement and a Warranty Deed from The Board of Education of Independent School District No. 8, located in Lot Three (3), Block Seven (7) of Westwood 1<sup>st</sup> Addition, for the NW 38<sup>th</sup> Street Reconstruction Project, and authorize the Mayor and City Clerk to execute the Temporary Easement and Warranty Deed. Action: approved.
6. Consider accepting the West Industrial High Zone Pump Station #1 Project #2001-20 as constructed by Quicksilver Construction Company, Inc. and placing the Maintenance Bond into effect. Action: approved.
7. Consider authorizing staff to receive bids for flow monitoring of the Squaw Creek Sewer Basin as required in the DEQ Consent Order, Case No. 02-397 for the Citywide Sewer Rehabilitation Program. Action: approved.
8. Consider approving the record plat for Rolling Hills Addition, Part 3F, and accepting improvements, maintenance bond, and easement outside the platted area. Action: approved.
9. Consider approving the Memorandum of Understanding between the City of Lawton and the Lawton Metropolitan Planning Organization (LMPO) for transportation planning during Fiscal Year 2004-2005 and authorize the Mayor to execute. Action: approved.
10. Consider approving the Memorandum of Understanding between the City of Lawton and the Lawton Metropolitan Planning Organization (LMPO) for Congestion Mitigation Air Quality Campaign during Fiscal Year 2004-2005 and authorize the Mayor to execute. Action: approved.
11. Consider denying the requests for the installation and/or removal of traffic control devices at the intersection of NE Hilltop Drive and Central, 704 SW 45<sup>th</sup> Street, NW 20<sup>th</sup> and Elm, SW Rolling Hills between 38<sup>th</sup> and 43<sup>rd</sup>. Action: approved.
12. Consider approving a Resolution authorizing the installation and/or removal of traffic control devices on NW 40<sup>th</sup> at Columbia, NW Arlington at 36<sup>th</sup>, NW Ferris and Sheridan.

Devine said these are to remove two stop signs and one no right turn on red. The first is the stop sign on 40<sup>th</sup> and Columbia. Even though the Traffic Commission voted to have this removed, he said he couldn't support this because of the numerous calls he has received. The school buses load and unload in this area and if we remove that stop sign, the traffic will proceed to a rate he feels would be totally unsafe for the kids. He said we really need to keep that sign in there, even though he knows a stop sign is not designed to control traffic or the speed of traffic, it's very important to keep it there.

MOTION by Devine, SECOND by Warren, to leave the stop sign at 40<sup>th</sup> and Columbia.

Powell mentioned immediately to the west, there is a City park for the children to play in.

Vote on the motion was held at this time.

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

Devine said the second one is the stop sign at NW Arlington at 36<sup>th</sup> Street. This stop sign was put in approximately three years ago by the request of some of the people in that area. They brought him a petition asking for this stop sign. This has been before Council two times, both times Council has voted to keep the sign in place. There are some people in the audience who would like to speak on this and he asks they be allowed to do so.

Jeff Sadler, 11400 W Cache Road, said he used to represent this area when he was on the Council and had some calls from neighbors who had signed the petition a couple years ago. They signed it because Mrs. Hillis had asked them to support it, but they thought it was a temporary situation while the major hospital construction was going

on. Now that it's completed, he has had a lot of calls asking when this was going to be brought back before Council. He said one doctor told him he has lived there 40 years and has never seen an accident and thought it was foolish it had ever gone up. It is such a quiet little intersection and the Traffic Commission agreed 100% that it wasn't necessary. It doesn't seem to be a speed or safety issue, there's no justification for it.

Clay Hillis, 3515 NW Arlington Avenue, said the arguments made by Sadler have been before this Council two times before, there is nothing new in what they said. Their reasons behind all of this have been considered and there is no need to change what has been done in the past. These stop signs are doing a good job at keeping the kids in the neighborhood safe and they feel very strongly about keeping in there. He said he knows of several people in the neighborhood who support this stop sign. It is a little inconvenient to have stop signs in your neighborhood, but when you are balancing a minor inconvenience to people versus the safety of children, he sees no reason to switch on this and he urged Council to keep it in.

MOTION by Devine, SECOND by Ewing-Holmstrom, to leave the stop sign at 36<sup>th</sup> and Arlington in place. AYE: Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Bass, Hanna, Devine. NAY: None.

Devine said he pulled item 12, but the third one steps into Shanklin's Ward. That's on his corner and Devine said he has the corner across the street. He said he doesn't have a problem one way or another, but he would like to see it there. He said the old hedge that was there was creating the problem. The north bound traffic couldn't see or the people turning north off Ferris couldn't see the traffic north bound on Sheridan Road. Many years ago we had a lot of traffic accidents there. He said personally he likes the sign there. He said that is Shanklin's Ward and would like him to elaborate on this if he wants to.

Shanklin said he thinks we should remove that existing right hand turn for the west bound traffic. He said he goes there 4 to 5 times a day and there are a lot who race to get to that arrow so they can move.

MOTION by Shanklin, SECOND by Warren, to remove the existing no right turn on red at Sheridan and Ferris. AYE: Shanklin, Patton, Haywood, Warren, Bass, Hanna, Devine. NAY: Ewing-Holmstrom. MOTION CARRIED.

13. Consider endorsing the Federal Fiscal Year 2005-2007 Transportation Improvement Program (TIP) for the Lawton Metropolitan Area. Action: approved.

14. Consider endorsing the Fiscal Year (FY) 2004-2005 Unified Planning Work Program (UPWP) for the Lawton Metropolitan Transportation Planning Process. Action: approved.

15. Consider accepting an agreement from Charles Benke regarding the purchase of his private waterline in order to close Tinney Road and expand the City landfill, and authorize the Mayor and City Clerk to execute the agreement.

Vincent said we have presented Benke with this contract and he was to get it back to us today. He apparently likes the terms and conditions of the contract where we pay him \$5,000 for his water line and is allowed to tap the City line, however, we do not have the signed agreement back from him so Council can proceed in one of two ways. We can either table this item until the next meeting or we can approve it subject to him returning it in the condition we gave it to him, signed, without changes, and the Mayor and City Clerk can sign it.

MOTION by Shanklin, SECOND by Devine, to table this item until the next Council meeting. AYE: Patton, Haywood, Warren, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin. NAY: None. MOTION CARRIED.

16. Consider approving the following contract extensions: Tree Transplanting Service (CL03-060) with Booker Tree Service. Action: approved.

17. Consider awarding contract for Striping Paint (CL04-055) to The Sherwin-Williams Company. Action: approved.

18. Consider approval of appointments to boards, commissions and trusts. Action: approved.

19. Consider approval of the minutes March 23, 2004 Regular Meeting. Action: approved.

20. Consider approval of payroll for the period of March 29, 2004 to April 11, 2004. Action: approved.

Powell announced that we are going to strike item #25 and table item #30. He read the items at this time.

MOTION by Hanna, SECOND by Devine, to strike item #25 and table item #30. AYE: Shanklin, Patton, Haywood, Warren, Bass, Hanna, Devine, Ewing-Holmstrom. NAY: None. MOTION CARRIED.

Devine said we need to consider our franchises and permits on some of the things we allow to go on within our City

for the utility companies. A lot of people have called and questioned him about it and wonder why all our utility companies, with the exception of one, moved their pay stations. The only one we have in the City of Lawton where you can pay your bill without mailing it in is cablevision. On your electric bill and your gas company, you have to send them out of state and he thinks this Council needs to work something up in our franchises that we request they make a place here, within our City limits. We are the third largest city in the state and should at least be able to pay our utility bills within our city limits without having to mail them off someplace.

Powell said he agrees 100% and has talked with Mitchell on this. He asked Mitchell if the City of Lawton could get involved in taking the fees for those in a profitable manner. To provide a service and also it wouldn't cost the citizens any money at all. He said Mitchell and Endicott are looking at this. He said Devine has a good point.

Devine said we should do something within our contracts when renewing these franchises. He asked Vincent if we couldn't put something in these contracts, legally, where they would have to allow a place within our city limits for citizens to pay their bill.

Vincent said our franchises are voted on and we don't have any coming up within the foreseeable future. Our oldest one is PSO and it has 7 years to go on it's franchise. We would have to work something out in a separate agreement with them.

Patton asked if we were talking about a drop off point or them actually having a manned office.

Devine said he thinks what Powell said about the City collecting those would be great. We need a place where citizens can walk in and pay their bill. If you mail it and it gets caught up in the mail, there is an extremely high late penalty and there is a lot of people who can just barely pay their bill to start with.

Powell said he hoped the taxpayers heard him say this would not be a cost to them at all. It would be a service as well as a money making venture in some manner.

OLD BUSINESS:

21. Consider the following damage claim recommended for denial: Deborah L. Bettis.

Vincent said this claim was tabled at Haywood's request so he would have an opportunity further check it out. He said he knows of three times prior and another time, about two weeks ago, where low water pressure or no water pressure burned out the heating element on the claimant's hot water tank. It is the City's position that we don't guarantee water pressure in our lines and the City Code says we are not responsible for damages caused by low water pressure, therefore, we are recommending denial.

Haywood said Mrs. Bettis is here at his request to speak to Council.

Deborah Bettis said she has a problem with the City turning off the water all the time. The plumber explained to her that when the water is turned off, the hot water drains back down and then her heating element burns out because there is no water there for it to heat up. The City has turned her water off quite a bit. She said it's been turned off on March 2004, November 14<sup>th</sup>, January, and on April the 12<sup>th</sup> and it has cost her money because she has to go out and buy a new heating element, and has to get a plumber out there.

Devine said there is a tube in the hot water heater that has a hole in it and if installed, will not let the hot water heater siphon out. That is what it is designed for and it's in the fill or dip tube of the hot water heater about 6" down from the top. There is about 1/8" of a hole in this tube so when the water is siphoned down from the main being off, it would suck air there and stop the vacuum of draining the hot water down below the element which would cause it to burn out. He said he wished Council would get a Code Enforcement person down here to explain this because this puts him in a difficult position. If that tube was installed in properly, her hot water heater would not drain.

Bettis asked how would she go about getting this and Devine explained to her.

Haywood said Bettis has had four bills she had to pay in March, November, January, and April and would like to approve her claim at a reduced amount.

MOTION by Haywood, SECOND by Shanklin, to pay the claim of Deborah L. Bettis in the reduced amount of \$120. AYE: Haywood, Bass, Hanna, Shanklin. ABSTAIN: Devine. NAY: Patton, Warren, Ewing-Holmstrom. MOTION CARRIED.  
BUSINESS ITEMS:

22. Hold a public hearing and consider adopting a City Council resolution to support an Oklahoma Affordable Housing Tax Credit (OAHTC) application by Great Plains Improvement Foundation, Inc. and McSha Properties, Inc. to the Oklahoma Housing Finance Agency (OHFA) and authorize the Mayor and City Clerk to execute the document.

Aplin said Great Plains Improvement Foundation, Inc. has partnered with McSha Properties, Inc. to developed an elderly housing apartment complex at 27<sup>th</sup> and J Avenue. Their plan is to do this with Oklahoma Housing Tax Credits awarded through a competitive award by the Oklahoma Housing Finance Agency. The need for elderly housing in the community is a high priority in our Consolidated Plan. We have doubled checked the numbers provided in the market study done by the individual hired by McSha. He said they find the estimates provided do indicate a need that would justify a project of this nature. We are asking Council to hold a public hearing and consider authorizing a resolution of support for them to go forth with their application and be considered competitively for the award of these housing tax credits.

Shanklin asked how Great Plains got 51% ownership. Aplin said actually Great Plains, in this partnership arrangement, is the senior partner for the project. Shanklin said they put up no monies at all. Aplin said he couldn't answer that. Mr. Gunter would have to answer that question. Shanklin asked if he couldn't answer that why was he involved in it then. Aplin said their only mission here is to present it to Council and allow you to consider the resolution they requested. Our recommendation is to approve the resolution because our review of the data indicates a need and is a high priority in our Consolidated Plan. We feel it would be a good viable project for the community. He said the fact that Great Plains Improvement Foundation is the senior partner will insure that more of the money is actually going to stay right here in the community as a result of the development of this project.

Shanklin said he still wanted to know from Mr. Gunter what kind of funds he has to put up to become a partnership in a \$5-7 million operation.

Odell Gunter, Director of the Great Plains Improvement Foundation Community Action Agency located at 2 SE Lee Blvd., Suite 200, said they are a non-profit organization, 501C3. In order for McSha to get this property, they need to partner with a non-profit organization. That's regulations in the chapter that deals with low income housing tax credits. Shanklin said at 51% means you are calling the shots if you wanted to. Gunter said they are a partner to McSha in the building of this property. We are not putting up anything. We are providing services to the project itself from our agency, such as transportation and child care food programs. We are going to work with the County Commissioners to do Meals On Wheels for the seniors and those kind of things. Those are services we provide already.

Bass said when McSha came before the Council they said Fort Sill Garden Apartments and 27<sup>th</sup> and J were going to be partners, you couldn't do one without the other. Is Fort Sill Gardens a part of it or are they out of the picture now?

Aplin said Fort Sill Gardens currently has an active application at Oklahoma Housing Finance Agency. The Board of Directors of the agency will be meeting on the 19<sup>th</sup> of May to consider those applications, so it is in a different cycle. He said this application is designed to be submitted about the middle of June. The decision on it will not be made by the Board of Directors until, probably they November time frame.

Bass asked if you could do one without the other. If Fort Sill Garden Apartments, for some reason, can't get the permit, can they go ahead and do the 27<sup>th</sup> and J? Aplin said yes sir they can. Actually the 27<sup>th</sup> and J project initially supported by Council, was one of the projects designed to make the Fort Sill Gardens Apartments a more attractive and viable project in an attempt to get it approved. He said they had to compete in the general category the last time they submitted that project. By partnering with GPIF they will now compete in the non-profit project that at least, here to date, has not been as competitive as it has been in the past. Even though they were in the general category the last time, they only missed it by a few points in getting funding. The bottom line was there just isn't enough money to go around.

Warren said this is a completely separate project, completely separate piece of property. The original 27<sup>th</sup> and J and Garden Apartments are still teamed together, to his understanding.

#### PUBLIC HEARING OPENED AT THIS TIME

Teresa Goss, Vice-President of McSha Properties, Norman, Oklahoma said right now they have been approved by Oklahoma Housing to do 1 development on 27<sup>th</sup> and J. The other one is just a proposal we have in front of you tonight. We don't have 2 at this present time. When we came in front of the Council in 2003, we did say we needed to do both to make it work. We did take those applications to Oklahoma Housing Finance Agency, one of them was approved and one was denied. Once you're approved, you have 24 months to complete that. If you get those credits back, for any reason, you really almost become black-balled, so there wasn't anyway we could stop progress on the 27<sup>th</sup> and J. We were committed to our promise to the City and the community that we were going to do our best efforts to get the Fort Sill Gardens approved because we knew the City desperately wanted that done. It's an eyesore, has been an eyesore, and we felt McSha's experience could come in and rebuild that and enhance the community. So that's what we did. When we submitted our first application we got as many points as we possibly could. There wasn't any other way to get points, so what we did was to join with Gunter and his group as partners. By having done that, it gives us another bite at two different sets of pools. We don't get additional points, but at least we can go to the general pool category and the non-profit category. It also gives Gunter and his group the experience they need to continue on with their desire to provide

affordable housing and doing tax credit developments. It also provides us the experience that Gunter will be able to offer us as far as services and building that relationship. We went back, redid our application, met with the attorneys, drew up the legal documents to become partners, and submitted the application again. We have it in front of Oklahoma Housing Finance Agency right now and will not know until May 19<sup>th</sup> at the Board Meeting, if we're approved or not. If we are not we are going to submit it again. She said they are committed to this development and are going to see it through. She said that was a promise Larry Shaver made to you and he is good to his word and whatever he needs to do, he will do it.

We did close on 27<sup>th</sup> and J yesterday with our construction lender. While we were here we had our investor's Environmentalist company meet us at the Fort Sill Gardens Apartments. Even though we don't own that property yet, we've already started removing some of the debris and some of the vegetation out there. We wanted the Environmentalist people to come out and kind of talk to us about the stuff that's on the outside. We want to make sure all our ducks are in a row so if we are approved on May 19<sup>th</sup> we can get this ball rolling.

Shanklin asked what their tax credit value was for the project that is approved now. Goss said they were approved for \$473,000. Shanklin asked what would be the total value of your project. Goss said the total development cost is \$6.2 million. That's just the one project we have now.

Haywood asked where they would buy their material. Would you buy your material in the City of Lawton? Goss said they go out for bids and everyone can submit a bid and the lowest bid, normally, is the one who is selected. Powell said the people here in the Lawton-Ft. Sill community will have an opportunity to bid on that. Goss said yes they would.

Ewing-Holmstrom said in the actual resolution at the bottom paragraph, it talks about \$12,550, where is that money going to go? The way it's written, it's sort of vague.

Aplin said on the previous projects they have brought up here, we've recommended a certain amount of CDBG or HOME funds as a City's contribution in support for the project. We are not recommending any CDBG or HOME funds for this particular project. Instead, what we are doing is using a sewer line construction that has already been completed and paid for by the City. The value of that project was about \$12,500, so the project is already concluded on a sewer line that actually serves the 27<sup>th</sup> and J site and Oklahoma Housing Finance Agency will accept that as the community's contribution to the support. No new money to be outlaid.

Goss said Shaver wanted to apologize for not being here, but right when we were getting ready to leave he was called for an engineer emergency at one of our other sites, so he does extend his apologies for not being present this evening.

Al Caldwell said he is not sure what amount of money McSha is requesting on tax credit. They are approved for approximately \$400,000 and they need \$6.2 million, so basically they are asking for they approached Council and asked for last year. On Tuesday, May 27, 2003, Larry Shaver from McSha Affordable Housing, stood in front of Council and stated he would like to get approval and support for an apartment financing plan that would give his company a \$5 million tax credit. At that time Shanklin asked what is a tax credit and Shaver replied that is was a legal way of stealing from the government. Caldwell said he believes that says, in a nutshell, what we are dealing with here. The tax credit will be sold to a Fortune 500 company and that company will receive a full \$5 million tax credit. That's the amount they asked for last year. It's sold to them at 80 on the dollar. Consequently, the McSha Affordable Housing would get \$4 million with which to partially build their project. They borrowed \$2 million from City National Bank. Whatever company they sell it to will have to guarantee this \$2 million for the City National Bank, but that really isn't important because basically, they are going to get a \$10 million tax free earnings. If they've got a \$5 million tax credit, that means it applies towards any taxes they may be liable for. If they're paying 50% tax, they'll still be able to make \$10 million and not pay a penny of tax. Caldwell said in addition to that, someone is going to get the depreciation allowance on these properties. Since this Fortune 500 company owns 99.9% for 15 years, if they are dealing with this the same way they did last year, they are going to get 99.9% of the \$6 million of the depreciation expense. At the end of that, it's signed over to the McSha Properties and they will own it. These may be rough figures but he thinks that's how it's going to be. The tax credit financing plan will allow McSha to rent these properties at a much lower monthly rate than we can compete with. If the economy sinks around here, if it goes lower, then he will be able to lower his rates because he has a lower loan debt. Then they have a tremendous advantage over everybody else in town who's trying to make a living off of multi-family dwellings. They have this low loan debt primarily because our tax dollar bought this project for them. This whole plan will virtually guarantee their success in our market and it creates an unfair market advantage because of the \$5 million gift. He said anybody can make money if they don't have to pay for their apartments. He said it's interesting to note they changed their marketing strategy also. Last year they were targeting the soldiers at Ft. Sill, telling us the soldiers would qualify for the apartments they were trying to build at 27<sup>th</sup> and J and the Fort Sill Garden Apartments. He said he has been told that basically military people have never qualified for low-income housing, they have to be a very extreme condition before they could. Why do we have to build these apartments? Why do we have to give \$5 million dollars to these millionaires, and why do we have to give this Fortune 500 company that kind of money or McSha when they have the money to build it themselves? They have the money, they have proven it with the stuff they have built on W. Gore and on 67<sup>th</sup> Street. Why do we have to foot the bill for this property? If it's a viable market, if they can make money doing it, then they should be able to spend their own money and do it and compete with us on a fair and

level playing field. Caldwell urged Council not to accept this.

Shanklin said he has asked our legislators about this and they can't tell him what it is. They recognize the fact that it's Oklahoma Housing Finance but they don't know how or what this is. You've only got \$400,000 tax credits, how do you develop that to \$5 million? Goss said that credit is an annual credit for 10 years. Over a 10 year period of time, it would roughly be \$5 million. Shanklin said there you go, that's a new twist right there. He said not Maddox nor Kirby could tell him anything about it until I got it from them. If anybody thinks that's a fair ballgame, try playing basketball with four referees and six players against your five and see how you come out.

Goss said McSha does not take any of those credits. Those are taken by the investors who have such a large income that can offset their income with that credit. Certainly McSha does not make that type of income to offset \$5 million. The only income McSha will get off this is from the construction and management fees. We have to compete on the same level as the other apartment owners out here because rates are market driven. We can't lower our rates to have an advantage over them. McSha and partners are individually liable for that loan, therefore, the bank is not at risk or liable. It's McSha, Larry, and the partners who signed personally on the dotted line. We also have to maintain a debt covered ratio of 1.15, so there is no way we could do that by lowering our rents to take an advantage over the other apartments owners. We are a profit making company. We are going to do that, but we are also going to help the community grow and that's our desire. We see economic growth here in Lawton. We're not in here trying to take money from the community or ask the community to pay for this. McSha is signing on the dotted line, they are personally liable and guaranteeing that loan. We do not have a loan with City National Bank, we do try to come in and do our loans with local banks if we can.

Shanklin asked why they even want a tax credit if it's not such a good deal.

Goss said the good deal is with the tax credits the investor will give us, say on a \$5 million tax credit, will give us up front, \$4 million. If our development cost to build is \$6.5 million, we only have to borrow \$2.5 million. We are able to build a nice development in your community. Anyone can apply for the tax credits. Any of these apartment owners here can go and apply to the State the same way we are. It's an open competitive process, there's not anyone that is not eligible to apply. The apartment owners in town have that same option as we do. She said soldiers can qualify up to an E7 rank and probably 40% of the City employees, entry level qualify, there are a lot of people in this community who qualify.

Patton said in order to qualify for the tax credits, don't you have to be in a low-income area, is that right? Goss said no it can be any area, as long as it's in the state. You have to have it income and rent restricted and that's based on each county. You can build anywhere.

Ewing-Holmstrom asked how soon after they close on the Fort Sill Gardens can we plan on being complete and will they look like the property in the brochure they handed out. Goss said absolutely and passed out other pictures for the Council to see. Ewing-Holmstrom said these apartments have been a problem and an eyesore for this City for several years. If a company wants to come in and the tax credits are available to anyone, unfortunately it's a company from outside our City who wants to come in and improve the apartment dwellings we have in this city, we should welcome that. We shouldn't fight them and it would certainly improve that neighborhood.

Caldwell said we are kidding ourselves if we think not owing a debt doesn't put us in a better position than owing a debt. He pays \$80,000 a year in interest on his loans and not having that loan would be a most definite advantage. He said if he could go to the Oklahoma Housing Finance Agency and get this \$4 million loan, he would, but he doesn't have the knowledge to do it. He asked Council to please not approve this thing.

Frank Richards, 322 SE Camelot Drive, said you have overlooked one of the main things we shouldn't have in our community. We have managed the Diplomat and Ambassador Apartments for some 20 years. We have had a terrible time with drugs and various undesirable people in our community. He said these vouchers the State issues are for low-income people and he believes they have to take those vouchers. Anytime they have a voucher and go up and want to rent one of their apartments, it won't be cheap. That voucher will likely be for \$500, or whatever, but it will be a low-income that has that and the low-income people are the ones you generally have trouble with drugs. We have had lots of people over at the Ambassador and Diplomat with drugs and have even found where they were making drugs in the apartments, which is real dangerous. Those are the things you need to think about. We should not have those class of apartments in our community.

Haywood said we have drugs everywhere in the United States, in every community, so they make drugs everywhere. Drugs are everywhere, you could be the richest person and you're going to find drugs in those particular areas. Every time someone new tries to come into this community, we knock them down. He said he has been on the Housing Authority, they have to go through the Oklahoma Housing Finance to get things done. Everything is dealing with taxes and the Federal Government will give them this money. They are giving this money up all over the United States and people are taking advantage of it. We have to wake up, let them come in and let everybody compete against each other. Those people have to live somewhere. It's time that we wake up. You can't have everything to yourself, you have to share it with everyone else.

Powell said he wants to remind everybody this is for a senior citizens project.

Bass said this is not something McSha just invented, this happens all over the United States. McSha properties have found people to find a legal way to have the investments where people who have a tax problem get a tax break on their dollar. This is not something new, it happens all over and it's a great opportunity for them to come in. If they come in and fix these properties, he's happy for them.

Warren said we need to keep in mind whether we approve this or not, it's not going to stop McSha from getting his money. McSha will get this money and do a project in Tulsa, Oklahoma City, Broken Bow, Broken Arrow, or Elk City. This is a vote on whether or not we want this project to take place in Lawton, Oklahoma. It doesn't have anything to do with tax credits or whether or not they should be able to do it because they are going to do it.

Caldwell said we are also mistaken if we think giving them the ability to build nice new apartments somewhere is not going to distract from another part of town, it most definitely will. It will help to lessen the value of that property in another part of time. We can't stop them from building or competing in this market, let them, but don't give them our tax dollars to do it, it is wrong.

PUBLIC HEARING WAS CLOSED AT THIS TIME

MOTION by Ewing-Holmstrom, SECOND by Warren, to approve a **Resolution No. 04-41** to support an Oklahoma Affordable Housing Tax Credit (OAHTC) application by Great Plains Improvement Foundation, Inc. and McSha Properties, Inc. to the Oklahoma Housing Finance Agency (OHFA) and authorize the Mayor and City Clerk to execute the document. AYE: Haywood, Warren, Bass, Hanna, Devine, Ewing-Holmstrom, Patton. NAY: Shanklin. MOTION CARRIED.

Warren said he wants everyone to remember the fact that McSha is going to spend this money someplace in Oklahoma and he'd just as soon they spend it in Lawton. It's our money and he would much rather our money be spent here than in Tulsa.

---

23. Hold a public hearing and consider an ordinance closing the public utility easement located in a closed portion of "C" Avenue between Sheridan and SW 21<sup>st</sup> Street in Radio City Addition.

Vincent said during the construction of a sewer line that ran from Doe Doe Park SE along the creek bank, we needed some easement from the Green property and we made an agreement with them that we would come back and close the no longer needed sewer line and easements in C Avenue that ran adjacent to Doe Doe Park and this is to fulfill our agreement.

PUBLIC HEARING WAS OPENED AND CLOSED WITH NO PARTICIPANTS

Vincent read the ordinance title prior to the vote.

MOTION by Shanklin, SECOND by Haywood, to adopt **Ordinance No. 04-15** closing the public utility easement located in a closed portion of "C" Avenue between Sheridan and SW 21<sup>st</sup> Street in Radio City Addition. AYE: Warren, Bass Hanna, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

(Title only) **Ordinance No. 04-15**

An ordinance closing a utility easement located in Radio City Addition, addressed as 2201 SW C Avenue, more particularly described in Section One hereof.

24. Hold a public hearing and consider an ordinance changing the zoning from R-4 (High Density Apartment District) to C-5 (General Commercial District) zoning classification located at 1110 SW B Avenue.

Bigham said this is a rezoning request located at 1110 SW B Avenue. The applicant is Mike Nottingham. The Planning Commission, on March 25<sup>th</sup> held a public hearing on this and by a 7-0 vote, recommended approval of this to the City Council and proper notice was published for this public hearing.

Devine asked if this makes all the area commercial now. Bigham said that is correct.

PUBLIC HEARING WAS OPENED AND CLOSED AT THIS TIME WITH NO PARTICIPANTS

Vincent read the ordinance title prior to the vote.

MOTION by Shanklin, SECOND by Devine, to approve **Ordinance No. 04-16** changing the zoning from R-4 (High Density Apartment District) to C-5 (General Commercial District) zoning classification located at 1110 SW B Avenue. AYE: Bass, Hanna, Devine, Shanklin, Patton, Haywood, Warren. NAY: Ewing-Holmstrom. MOTION CARRIED.

(Title only) **Ordinance No. 04-16**



An ordinance changing the zoning classification from the existing classification of R-4 (High Density Apartment District) to C-5 (General 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.

25. Consider entering into a letter of engagement with the accounting firm of Carlson and Cottrell, CPAs, PLC, to perform the City of Lawton's annual audit for Fiscal years 2004, 2005, and 2006. **THIS ITEM WAS STRUCK.**

26. Consider amending City Council Policy 9-1, Special Event Policy for Lake Lawtonka, to allow Boulevard of Lights to hold a Family Fun Day Celebration on July 3-4 annually.

Kim Shahan said he received a letter from the Boulevard of Lights Committee requesting to be able to hold a Family Fun Day Celebration at Lake Lawtonka on July 3<sup>rd</sup> and 4<sup>th</sup>, 2004, for the purpose of raising funds to assist in the continued support of the Blvd. of Lights, which we are a co-sponsor during Christmas time. The Family Fun Day Celebration will be developed somewhat like a carnival-type of activity where families would attend. He said discussions with the Committee, himself and the Lake Patrol Lt. were involved in that and they see, logistically, they could manage this project and encourages Council to amend the policy so this celebration could be established.

Patton asked if there were any trailers that will be allowed in that area. Shahan said it is a non-camping location.

Ewing-Holmstrom asked if we have ever done this for any other group. Shahan said no this is the first time.

Ewing-Holmstrom asked how much money will this cost the City by providing police and fire support. Shahan said those items are already taken care of each year because we have fireworks out at the lake. It's already in place.

This is an opportunity to see if it's a good venue for them to be able to raise funds. We are requesting to amend the City Council Policy.

Patton asked if this will be open to the public.

Shahan said it is open to the public. You could attend even if you do not purchase activity tickets.

Ewing-Holmstrom said in the future other groups may come forward and want us to make a special exception for them and that is her concern. If we do this for one group, we need to be prepared to make adjustments in our Code for other groups.

Shahan agreed that's why the policy is in place. The difference in the level of support with this particular project is the City is vesting a lot of money in this celebration during Christmas time. As of right now, there is not a venue to them to be able to receive proceeds from people enjoying that. They are attempting to go outside and establish a fund raising project that could possibly assist in that. Shahan said he thinks it's something that needs to be evaluated at the end of the year to see if it's something we want to do in the following year.

Haywood asked if they have something over the weekend for Shriners at the lake. Shahan said not since he's been here.

Bass asked Vincent if there was a way to do this without taking this policy out. Once you start this, you will get a flood of people coming in. Vincent said the important thing is this is a City co-sponsored project and the other thing to notice is this is a Council Policy and not an ordinance. If this was an ordinance we would have no choice but to turn it down, without amending the ordinance. The Council can waive a policy and it's important to note that we are co-sponsoring the Blvd. of Lights, so there is a restriction there if the Council wants to amend this for special events, co-sponsored by the City, that would put a limiting factor on it. Shanklin asked if that could be done today. Vincent said yes, you could make an amendment to the policy right now. You can do it a year at a time.

MOTION by Shanklin, SECOND by Bass, to amending City Council Policy 9-1, Special Event Policy for Lake Lawtonka, to allow Boulevard of Lights to hold a Family Fun Day Celebration on July 3-4 annually.

Warren asked how much the City of Lawton is putting towards the Blvd. of Lights. Mitchell said we budget about \$25,000 to help pay for the electricity for that event. Over and above that, he didn't know. Warren said we did use a lot of city employees to do some things over there. Shahan said those services beyond electricity is very minimal now. They have definitely stepped up in the last four years in taking charge of all the equipping of the Blvd.

VOTE ON THE MOTION WAS HELD AT THIS TIME

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

27. Consider authorizing staff to prepare plans and specifications for the Nine Mile Creek Sewer Line Project #2004-5.

Ihler said we are asking Council to authorize City staff to prepare plans and specifications for the Nine Mile Creek Sewer Line Project. He said approximately a year to a year and a half ago we looked at this project and sent out requests for proposals to engineering firms and received RFPs. The cost to process the design project was \$175,000. We are asking you to consider authorizing staff to go forward and design this project in house and authorize some funding from the 2000 CIP Economic Development. Some aerial photos would help with development of the east side and with design of areas along and adjacent to the existing city limits. We estimate we could do the design for \$110,000 with appropriate equipment. This would be a \$65,000 savings versus going out with a consultant engineer. It is an advantage for the City to utilize those aerial photos for this development, as well as other economic development that goes along in this area. The initial phase would serve about 4,800 acres on the east side. The City has four lift stations on the east side that we currently spend about \$35,000 per year on maintenance and operation. As this line is constructed, over time, this cost could be eliminated.

Ewing-Holmstrom asked how much of the 4,800 acres is in the city limits now. Ihler said he didn't have an exact number. He said the majority of that 4,800 acres would actually be outside the city limits. Ewing-Holmstrom asked if this would require some annexation of the east side. Ihler referred to legal, but in order to design it, he didn't think we would have to. Ewing-Holmstrom asked if we would actually do the project. Vincent said if you annex the whole area, it's about 6 to 7 square miles. There's around a 1,000 acres currently in the city limits.

Ewing-Holmstrom said there are a couple things Ihler wants to do with this and one very important for the City as a whole, is to get some aerial shots of the east side. Ihler said we would ask to be able to do aerials of the 15 square miles and it would provide us a great advantage to determine drainage in that area. Part of that is in the city limits and part of it is out. There would be a great advantage to future development as well as looking at the current status of what's there now.

Ewing-Holmstrom asked about the requested equipment. Ihler said the equipment they are asking for about \$40,000 to purchase some RTK Surveying Equipment, which would be utilized on this project as well as many other projects in the future. The aerials are specifically associated with this project, but there could be other projects in this area that arise.

MOTION by Ewing-Holmstrom, SECOND by Bass, to table this item and direct staff to go back and look at the possibility of what it would cost for us to do aerial photography all around the city for areas we are discussing for possible annexation and the equipment needed for Public Works to do other things throughout the city.

Devine said before the vote he would like to say something.

Powell asked Bass if he would withdraw his second.

Bass said he would withdraw his second.

Devine said before we get in a total uproar on the east side of town, we are not going to have to annex all that property and only an easement for that to go in, right? Ihler said in regards to annexation, as to whether we have to annex to construct, he would have to defer to the City Attorney.

Vincent said you can construct the trunk line, without annexation.

Devine said he promises if you start talking annexation, you are going to have another war and he went through that once.

Vincent said annexation is more towards service than construction.

Powell asked if they were ready for the table.

SECOND by Bass.

VOTE WAS HELD AT THIS TIME.

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

---

28. Consider adopting an Ordinance amending Section 22-2-1-215, Chapter 22, Lawton City Code, 1995, amending the provision relating to interference with or obstruction of access to water meters, providing for severability and declaring an emergency.

Endicott said over the last several months we have had issues where meters have been obstructed by vehicles or various types of objects that have delayed the ability of the meter reader to actually read the meter. This ordinance gives us clarification on what we can do if obstruction of a meter happens. We ask that you pass this

amendment.

Powell asked what can happen when there is an obstruction.

Endicott said they have had people park their cars over the meters, put different types of objects inside the meter, those type of things. Devine asked what types of objects are they putting in there. Endicott said sometimes they will put something over the meter, or blankets inside or metal objects in there to prevent them from reading.

Devine said he has a problem with that because a lot of people have meters during the winter time freeze and burst and they use that for protection on the meters. Endicott said he was not talking necessarily about those kinds of issues. The intent of this is when people actually put something in there that a single meter reader couldn't necessarily get out himself. Probably more than anything, we have vehicles parked over meters. Devine said he could support the parking vehicles over the meters, but the older people have a tenancy to want to put objects in there to keep those meters from freezing because they have been through that in the past. If we could word that where they obstruct them from being able to read the meter and/or have access to it, he would agree to the ordinance. Just because they put blankets or rubber mats over the top, he wouldn't want citations issued for that. Endicott said no sir, when it really gets down to it we are talking about vehicles.

MOTION by Ewing-Holmstrom, SECOND by Patton, to adopt Ordinance No. 04-17 amending Section 22-2-1-215, Chapter 22, Lawton City Code, 1995, amending the provision relating to interference with or obstruction of access to water meters, providing for severability and declaring an emergency. AYE: Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Bass, Hanna. NAY: Devine. MOTION CARRIED.

Vincent read the ordinance title prior to vote being taken.

(Title only)

**Ordinance No. 04-17**

An ordinance pertaining to Utilities amending Section 22-2-1-215, Division 22-2-1, Article 22-2, Chapter 22, Lawton City Code, 1995, pertaining to interference with meter, averaging charges and adjustment of water bills, providing for severability, and declaring an emergency.

29. Consider an ordinance amending Article 7, Chapter 21, Lawton City Code, 1995 clarifying the classifications of drainage channels, prohibiting private wet detention facilities on primary channels and amending standards for the construction of private wet detention facilities (lakes) on secondary channels.

Jones said this is a Code amendment in the subdivision code which deals with drainage. She said they have a request from Mr. Keegan Ledford that he be allowed to construct a lake or wet detention on a secondary channel.

We have had this done once, previously in the past when the old detention ordinance was in effect, so we needed to go in and do some minor modifications to the Code, to allow the developer to have this option. We have done that and these would be private lakes constructed on secondary channels, not primary channels. It would be privately owned and maintained either by the developer or the abutting lot owners or the Homeowner's Association. Staff recommends approval to Council.

Vincent read the ordinance title prior to the vote.

MOTION by Ewing-Holmstrom, SECOND by Warren, to approve Ordinance No. 04-18 amending Article 7, Chapter 21, Lawton City Code, 1995 clarifying the classifications of drainage channels, prohibiting private wet detention facilities on primary channels and amending standards for the construction of private wet detention facilities (lakes) on secondary channels. AYE: Shanklin, Patton, Haywood, Warren, Bass, Hanna, Devine, Ewing-Holmstrom. NAY: None. MOTION CARRIED

(Title only)

**Ordinance No. 04-18**

An ordinance pertaining to subdivisions amending Section 21-3-304, Chapter 21, Lawton City Code, 1995, providing construction plats which have been approved but not constructed within two years of approval date must meet all applicable requirements of the Lawton City Code, amending Article 7, Drainage, Chapter 21, Lawton City Code, 1995, clarifying the classification of primary and secondary drainage channels, prohibiting private wet detention facilities on primary channels and amending standards for private wet detention facilities on secondary channels; and providing for severability.

30. Consider Revocable Communication Cable Permit Number 5 to Indian Nations Fiberoptics, Inc., to install approximately 8,580 feet of fiberoptic cable in the Ease Gore Boulevard right-of-way. THIS ITEM WAS TABLED.

31. Consider a request from Rusty Shackelford of Rusty's Electric, Inc. for the installation of a six-inch water line and a fire hydrant located in the 900 block of SW F Avenue.

Bigham said they received a letter of request from Mr. Shackelford of Rusty's Electric to seek assistance from the City in the installation of a water line and fire hydrant on the south side of F Avenue in the 900 block. Staff requests direction from the Council on the preparation of a cost-sharing agreement for amending the City Code to allow for fire protection to be provided by fire hydrants on the opposite side of the street.

Shanklin said Shackelford's letter states when he drove up and down A, B, C, D, & E Avenues from 6<sup>th</sup> to 11<sup>th</sup>

Street, he noticed there are no fire hydrants on the side. They are located on the NE corner of each block. Shanklin asked why is it that we really want him to have one.

Bigham said currently the Code, in Chapter 11, Section 11-402, Section B4, states that fire hydrants servicing a site shall not be separated from a site by a collector, minor arterial or principal arterial, as defined in the Lawton Metropolitan Transportation Plan. He said F Avenue is considered a collector or an arterial street, therefore, the fire hydrants on the other side of the street can not count for fire protection.

Ewing-Holmstrom asked what was being built. Bigham said Rusty's Electric business. Ewing-Holmstrom said she was confused and what had she missed. All of a sudden they have to have a fire hydrant. Bigham said it was a condition of the building permit. They have not occupied the building at this point.

Powell said three blocks west of there we ran into a similar situation two years ago. Bigham said the City Council funded that extension of the fire hydrant. Powell said wouldn't it seem like we were playing cat over here and mouse over here if didn't over the same thing. What do we need to do?

Vincent said he and Hadley had discussed this and on a two-lane collector, generally he would have no objections to fire hydrants across the street. If he agrees with that from a safety stand point of the fire trucks and fire service, then that would be the more appropriate resolution.

Hadley said as far as two-lane collectors, he would not be in favor of changing just in general, to all two-lane collectors, it would be allowed to be across the street, but he would not have a problem with certain situations, this being one of those. It just depends on the area. He said he agrees with Shanklin, that F Avenue, in that particular location, is probably not as highly traveled as some of the two-lane collectors. He said he has an aversion to giving a blanket approval.

Rusty Shackelford said he and his wife are the owners of Rusty's Electric Inc. and have been in business for six years. He said he has met with Mark Mitchell and several City officials and have strategically located where the fire hydrant would be so it would also cover the Elk's Lodge which is a 6500 square foot building on 904 - 906 F Avenue. His building is 2700 square feet, we have three 10 foot overhead doors, 600 square foot office space, and a handicapped bathroom. He wants to comply with City Codes.

MOTION by Shanklin, SECOND by Haywood, to bring back an Ordinance to defer the area of 900 block of F Avenue as a collector street and accept the existing fire hydrants on the north side as protection for this area and have no fire hydrants on the south side. AYE: Patton, Haywood, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin. NAY: Warren. MOTION CARRIED.

Devine said we need to see if we can get him a permit so he can move into that building. Could the City Manager issue him a temporary certificate? Mitchell said he would issue him one contingent upon Council's adopting the ordinance. Devine told Rusty he could go ahead and move in.

32. Discuss and consider authorizing the Mayor to sign a Letter of Intent expressing the City of Lawton's support for the National Army Museum of the Southwest.

Powell said this is a positive act and personally doesn't see anything wrong at all with this.

Mitchell said this is simply a Letter of Intent and the actual contract or agreement or arrangement will have to be worked out and we will come back with an actual document for approval.

MOTION by Patton, SECOND by Devine, to authorize the Mayor to sign a Letter of Intent expressing the City of Lawton's support for the National Army Museum of the Southwest. AYE: Haywood, Warren, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin, Patton. NAY: None. MOTION CARRIED.

Powell said there was someone here to speak on item number one who did not get his name turned in to be addressed and his name is James Smith. He didn't know he was supposed to turn anything in and this has been an on-going thing for many months, if not a year or so. We will have to have a motion to reopen his portion under number 1 under the consent agenda, pass that, then we will hear what he has to say.

MOTION by Shanklin, SECOND by Haywood, to reopen Consent Agenda item #1 as related to James Smith. AYE: Warren, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

1. Consider the following damage claim recommended for denial: James Smith. Exhibits: Legal Opinions/Recommendations.

Vincent said Mr. Smith is in the audience and he saw him when he came in, which was after the item had been considered, and he went out and met with him. He requested the Council reconsider this item. He had considerable damage to his property as a result of the heavy rain storm on June 25, 2003. As a result of that

damage from flooding, he filed a claim against the City. The closest fire station received 3.23" of rain in that time period that caused significant flooding. Council may remember seeing videos of flooding along Squaw Creek in front of Salas, at the mall, and several other locations throughout the city and Mr. Smith was one of those that did get flooded. Vincent reminded Council that they did deny Mr. Cornish's claim in the area not too far from here, for similar type activity on this same date. Vincent said Smith would like to make a presentation to the Council.

Smith said he lives at 1516 SW 4<sup>th</sup> and has lived in that area for many years. He said the problem is Urban Renewal took the south side of the highway over years ago. Before they bought it out, D & R wasn't there, it used to be a Case Tractor Place. He said there used to be a 500 ft. hole on that side of the highway. There used to be big huge square culvert you could drive a car through. His dad tried to prevent the flooding by cutting a ditch across his property to allow the water to get out. He kept getting flooding problems. He would no more than get flooded and would try to get Council to do something, and in turn, he came to the conclusion that Council wasn't doing anything for him. So, he came along and filled in right along the street, put dirt in front of his property, rocked his driveway, his yard, etc., to stop the water from getting in there. As soon as the water backed up in the street, the City come along and filled the street in. That was no problem. His dad came along and filled his yard in. He said this was an on-going situation, back and forth between the City and his father. It just seemed like the problem never got solved. It got to the point where it got so bad that there is five concrete steps to his front door that are buried under the ground from the City coming along, filled the street up, and the water ran off the street right into their place. It's like a river that goes across his property right now. He said he used railroad cross ties to deflect the water to keep it from getting into his house or his business. They say this is an act of nature of God and he does not believe this is true. We have a good rain at least once or twice a year in the City of Lawton because this is the worst area for tornadoes, floods, and all this stuff.

Smith said he didn't really want to come before Council because this is against his religion. He feels like his father got the run-around all his life and went to his grave talking to Council trying to get them to understand there is a problem down there and to please come down there and solve it. He said personally, he took it upon himself and went back up in the drainage pipe and took pictures, inspected everything. They've got this drainage pipe along the salvage yards on the south side of the highway, everyone of them, drains down into his property. How does he know that? Instead of going out south to Squaw Creek, it's coming straight into a box drain just on the other side of D & R's, under the highway, nobody can see it. You have to go under there to even see it. When the water gets ready to come out of his property, the water is coming out of all those salvage yards pushing the water back up into the pipe. He said the pipe it so big around but dirt is filling the pipe up, proof the water is pushing back up into the pipe. The water does get out when it's not a hard rain, but when a hard rain comes, and the water on the other side of that highway is trying to get out, it come out of the junk yard, comes back up into a box, from the box down under D & R. When you've got all that water trying to get out and the water from the other direction trying to get out, then you've got 900 acres of other water trying to get out down to his property, and that is where it exits. This has been going on since 1969.

Smith said he's been flooded in the past and has ignored it to the point where he can't ignore it anymore. He is tired of bringing it to people's attention. He said Mayor Gilley was here, Shanklin was here and aware of everything that's been going on, but everybody seems to ignore it. They argue with him and say it's adequate drainage. They said they were going to investigate. It was a poor investigation they did, if they did it. They did not come down and knock on his door asking him to show them the where problem is. He would have been more than happy to have stopped what he was doing and put the City first and have done whatever they asked of him. The other problem is when the water gets ready to go out, we've got a big flood. We've got Squaw Creek backed up. When that water keeps coming down, we've got trees and weeds 20 ft. high and the water can't get out fast enough. On the drainage part, over by his drainage system, it comes out from under the salvage yard, through the salvage yard and goes back north, heads straight back up to the creek and when that water is coming down this creek and it's bank to bank, he wishes someone would tell him how that water is going to get out.

Smith said back in 1994 or 1997, Council told his father they would consider getting that done for him. He had been before Council over 200 times trying to get somebody to do something. He died and went to his grave and you didn't have to worry about it anymore. Nobody was considering his family.

Ewing-Holmstrom asked if Smith could give some sort of detail or information. She said his claim was for \$44,292.

Smith said he has a television repair shop and has been doing that for 22 years and also has a home there.

Ewing-Holmstrom asked what the \$44,000 was for.

Smith said it's for the house and shop being flooded. He said he told the Mayor and City Attorney, this needs to be solved. He said he's not here about the money, but they promised his dad that they would take out a deal on the water bill and by the year 2002, that problem would be solved. Here it is 2004 and nothing's been done.

Powell said he has been down there several times and this is south fourth at the old highway going to Wichita Falls. D & R is there, and he's got a pie shaped lot, bounded by the highway and right at the farthest south east corner of his lot is a big square culvert that goes on over towards the salvage yard. One time we went down there and there

was a little bitty culvert on 4<sup>th</sup> Street that goes on the highway and all that water comes from the south and west and comes down through there. He said Ihler had sent a truck down there to blow that out so water could get through down there.

Smith said we thought that was one of the problems. He said he assured them it wasn't going to solve the problem.

Powell said there is a problem down there and he's been down there many times. He said he told Smith about filing a claim and let Council hear it and go from there. This has been on-going since last June.

Smith said we seem to go around in circles and not get anywhere. The water does get out unless there is a hard rain. We only get a hard rain once, twice or three times during the year, from spring to summer.

Vincent said our Code requires us to design for a 10 year flood and 3.23" of rain in a one hour period is about a 50 year frequency storm and that is what we had on that particular day. He said if Council wants to favorably consider any part of this claim, the maximum liability by State Statute, on a property damage claim that the Council can consider is \$25,000. That is the absolute maximum.

Powell said he did not give Council that information to suggest they do or don't pay any part of this claim, but he will tell you there is a problem down there.

Devine said we need to talk to our engineers to go down there and see if they can solve the problem. If we direct them to do that then they are going to have to move forward on this and it's not just going sit there in limbo. He said he is not in support of going out and spending \$40-50,000 if we are not going to correct the problem.

Ewing-Holmstrom said make it in the form of a motion and she will second it.

Haywood said this is his ward and Smith has been to his house and is absolutely right, that water is coming back. It may go underneath the highway, but it does come back. We really have to make a decision to either buy his house or fix the drain system. He said he can make a motion but what kind of motion is he suppose to make here that would be sufficient?

Vincent said you could make a couple of motions. One relates to the claim itself and the other is direction to staff on the way you think this should be processed.

Vincent said May 25<sup>th</sup> Council meeting, we could bring it back at that time. That gives 30 days approximately, after that the claim is automatically denied by operation of law. Anything after May 25<sup>th</sup>, the claim is automatically denied. He still has the ability to go to District Court.

MOTION by Haywood, SECOND by Hanna, to save the claim until the Engineers come back with a report to Council on the May 25, 2004 Council meeting. AYE: Haywood, Warren, Bass, Hanna, Devine, Shanklin Patton. NAY: Ewing-Holmstrom. MOTION CARRIED.

Powell asked Smith if he understood what has happened.

Smith said he kind of does. He said when the water got up out there, there's some drain out in front of his house that water comes up out of if the water doesn't get out back there and it has no where to go.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Haywood said Saturday he was at Earth Day, Hershey Track Meet, 6<sup>th</sup> Annual South Lawton Rally, and at the Science and Geography Club, so he was a busy person on that day.

Shanklin said he has two things to discuss. One is the hookup to the west side water line; we haven't come back from Ihler's staff yet as to what those fees will be. Mitchell said they are reviewing some options on how to develop that impact fee. Vincent said based on some case law out of Norman, that just came down in March, you have to have a study to justify the amount of the impact fee and we are trying to determine how best to arrive at that number.

Shanklin said on our right-of-ways and alleys, we were going to get a clean-up and that was supposed to have been brought back in two weeks. It's been a month.

Mitchell said they had an initial meeting last week and we are developing an RFP we hope to have out by the end of this week.

Devine said he would like Council to vote on the seating arrangement of Council. To arrange our seating in numerical order. He said it doesn't have to be an agenda item to vote on where we sit.

Ewing-Holmstrom said SSG Roger Smith from Charley Battery at 1/14<sup>th</sup> FA stationed at Fort Sill, ran in the Oklahoma City Memorial this past weekend, 26.2 miles in his GCUs (general combat uniform) and he is on the front page of the Daily Oklahoman.

Bass said he thinks the utility companies need to pitch in and do a share costing in that project. They need to pitch in and be partners with us.

Hanna said this was his last night and he appreciates working with everyone the last four years and he has learned a lot. He thanked his family for all their support.

Mitchell reminded everyone of the meeting next Monday morning at 9:00 a.m.

Shahan said he wanted the citizens to know that the Eastside Park is open and operating. The dollars through the CIP projects was used for this and it's the state-of-the-arts baseball complex. He encouraged everyone to go out there and watch the little league baseball games. This is an exceptional park and this is the kind of project built through the dollars that come through the CIP.

MOTION by Hanna, SECOND by Warren, to take a ten minute break and convene into executive session. AYE: Warren, Bass, Hanna, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

The Mayor and Council convened in executive session at approximately 8:35 p.m. and reconvened in regular, open session at approximately 9:12 p.m. with roll call reflecting all members present.

EXECUTIVE SESSION :

33. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss negotiations for a Collective Bargaining Agreement for FY 2004-2005 between the Police Union, IUPA, Local 24, and the City of Lawton, and take appropriate action in open session.

Vincent read the title of Item 33 as shown above. He said Council convened in executive session and after discussion no action is required at this time.

34. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss negotiations for a Collective Bargaining Agreement for FY 2004-2005 between the IAFF, Local 1882, and the City of Lawton, and take appropriate action in open session.

Vincent read the title of Item 34 as shown above. He said Council convened in executive session and after discussion no action is required at this time.

Powell announced he has called a press conference for 1:30 p.m. on Friday afternoon at the museum. He asked the Manager to be there and invites any and all to be there. There has been a find on some property the City of Lawton owns, that is historical in value and it goes back over 300 million years of age. He said a lady called him about 2 1/2 months ago and she had discovered something on City property. We worked through this and have been to Oklahoma University and it's found to be over 300 million years of age. He said he worked through Dr. Ross at Cameron University and she found a person, called the Mayor back, and gave him their name and phone number. He contacted them and asked Shahan to take the find to Oklahoma University at the Lord Nobel Museum and Dr. Siskoloski knew immediately what it was when they saw it. It wasn't what we thought it was. It is between 300-350 million years of age. Oklahoma at that time was an equator. This will be turned over to the museum at that time. Out of this, probably, Cameron University is going to start a class in their curriculum on this particular subject matter.

There being no further business to consider, the meeting adjourned at 9:17 p.m. upon motion, second and roll call vote.