

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL SPECIAL MEETING OF MAY 6, 2004, REGULAR MEETING OF MAY 11, 2004 & SPECIAL MEETING OF MAY 13, 2004.

MOTION by Warren, SECOND by Haywood, to approve the minutes of Lawton City Council Special Meeting of May 6, 2004, Regular Meeting of May 11, 2004 & Special Meeting of May 13, 2004. AYE: Givens, Devine, Shanklin, Patton, Haywood, Warren, Bass. NAY: Ewing-Holmstrom. MOTION CARRIED.

CONSENT AGENDA : Separate consideration was requested for Items #2, 3, 8, and 14.

MOTION by Bass, SECOND by Warren, to approve consent agenda with the exception of items 2, 3, 8, and 14. AYE: Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Bass, Givens. NAY: None. MOTION CARRIED.

1. Consider the following damage claim recommended for denial: SBC. Action: approved.
2. Consider the following damage claims recommended for denial: Michael Casper, Leona Cheatham, Clarence and Mary Bott, United Services Automobile Association, Randy and Belva Chambers and seven claims filed by SBC Communications, Inc.

Vincent said we need to pull Casper, Chambers, and Bott and deny the remaining claims of Cheatham and SBC Communications, Inc.

MOTION by Warren, SECOND by Patton, to deny the claims except for Casper, Chambers, and Bott. AYE: Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Bass, Givens, Devine. NAY: None. MOTION CARRIED.

Vincent said the claim of Casper is while he was traveling through the park area at McMahan Park, going from the street to the soccer field and driving between two parking areas, out in the field. He hit a rut or ditch and tore up one of the fog lights on his truck. It is our contention, as set out in the report after investigation and driving the area, that he was probably driving in excess of 10 mph when he hit this and bottomed out. If he is driving in excess of the speed limit, whether it is posted or not, there is contributory negligence and we are not responsible.

Michael Casper, 315 SE Warwick Way, Apartment G-56 said the 24th, the day of the soccer game, he had his grandson with him in his truck, was following the speed limit between 5 and 10 mph, and pulled to the right side or the west side of the porta potty to use the restroom. He said at that time he had hit the rut about 20 feet northwest of the porta potty and it is a runoff. He noticed he had mud on the bottom part of the front scoop of the truck, his fog lamp was hanging, and he found one of the officials at the ball park and asked who he should speak with. He contacted Lawton Parks and Recreation and was told he had to submit a tort claim. He took pictures and submitted them along with estimates with the tort claim. He said he received a letter stating his claim was going to be denied. He said the type of scoop that came with the truck is made out of plastic and the damage could only have been caused by bottoming out and speed would not have any effect on this. He spoke with the Parks and Recreation Administrator and asked him why they didn't have that rut marked off so you could see there was something there. He said the administrator told him it wasn't due to ascetic appearances. He also asked how long the park was in development before opening up this last soccer season and it was within a year. He said he parked between signs showing designated parking posted by the City. A person parking in a designated area should feel safe parking there without any damages being done to their vehicle.

Patton asked to see his pictures. Casper passed the pictures out for Council to see.

Devine said he would like to ask Kim Shahan about this. He asked Shahan if this was in a parking area and if the drainage wash out area was part of the parking lot. Shahan said the drainage area is separating two distinct entrances, grass parking areas. It is a runoff drain that is basically a dirt drain where the water can flow into the creek. He said at that particular time, the parking area, the drainage area, and the other parking area on the other side of the drainage area, was all mowed the same level. Shahan said from their perspective, the mowed area is clearly visible area of distinction of knowing you shouldn't cross over that particular area.

Devine said if the area was mowed and if it was a parking area, he would take into consideration that it would be safe to drive and park there. If there was any kind of ditch or drainage it should be clearly marked. He said in his opinion, he'd recommend paying it because if we're negligent of not marking this, we should take care of it. If the parking area was not repaired, it should have been closed. Shahan said it is a drainage area that has to be there for the property to be able to drain water. Devine said it should have been clearly marked. Shahan said the distinctive parking area has signs that state which direction you should be parking in. Devine asked Shahan if this was in the parking area. Shahan said it was not. Devine said he was driving in a non-parking area. Shahan said that is correct. Devine said he will retract what he said. If he wasn't driving where he was supposed to have been, then shame on him.

Casper said there are only two designated parking signs. Coming in on the north side there are five signs stating no parking. One on the north has an arrow pointing south and the fifth one has an arrow pointing north, with signs in the middle with arrows going both left and right. In designated parking signs, there are only two, one pointing

south and one pointing north. Between those two signs a parking area is provided. He said at that time, this mowed ditch looks just like the rest of the field. He said the Saturday after he submitted his claim, he arrived at the soccer field and there were t-posts with yellow caution tape going around the whole ditch.

Ewing-Holmstrom said from the pictures, there are plenty of parks in Lawton that looks like it s City owned but it s not. She said when she goes to a place like this she thinks she's entering at her own risk, because there is nothing paved, it s all grass. She said no one can control the level of the ground.

MOTION by Ewing-Holmstrom, SECOND by Patton, to deny the damage claim of Michael Casper.

SUBSTITUTE MOTION by Bass, SECOND by Haywood, to pay the damage claim of Michael Casper.

Devine said if that was not in a parking area, we should not pay the claim. You cannot be responsible for people driving, if they are not parking in a parking area, who are driving out across an open field, we can t be responsible for that.

Bass said if they had enough time to go out there and rope it off after the accident, it should have been roped off before the accident happened.

Haywood said in the near future, everyone should park in a parking lot and not in the grass at all.

Patton said he seconded this because in the picture there s a grated road and thinks the intent is for you to drive on that road and not across the parking lot. If we start opening ourselves up to everybody who cuts across a parking lot, we re going to be in some trouble.

Haywood said we need to put some signs up so if they go into the grass area, they will be on their own.

Shahan said this whole area is grass, other than the entrance to the park. The road that runs through it is the only pavement in the entire park area. He said in terms of distinctiveness of where a parking space is, there is only the objective decision of the people driving there. The signs are saying this is where you park.

Haywood said he agrees with Shahan because when we did the skate park, we had to park in the grass, so we probably need to get a larger parking area that s asphalt. He said he was 100% in agreement with Shahan.

VOTE ON SUBSTITUTE MOTION TAKEN AT THIS TIME

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

VOTE TAKEN ON THE ORIGINAL MOTION AT THIS TIME.

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

Purcell said the next item is on Clarence and Mary Bott.

Devine said he asked for this to be pulled because Mr. Bott has called him and asked him to speak on his behalf. As the items were stated, the police officers were chasing someone at high speed, lost control and went through his fence. He turned in his claim for \$500. Devine said he would like to pay this claim or set it aside at a later date when Mr. Bott can be here. He s not in real good health, so he s not sure he would be able to come in and respond to it. Devine said he thinks the City should be partially responsible for the damage created by our negligence.

Vincent said he wanted to point out that there are three specific provisions in the Oklahoma Governmental Tort Claims Act that would prevent us from paying this claim. He said the was stolen and an escaped convict from the Oklahoma City Correctional Facility was driving. There was a high-speed pursuit of about 3 miles south of the City limits. The escaped convict driving the stolen car did leave the roadway and crash through the fence. Under the Oklahoma Governmental Tort Claims Act, specifically, subsection 24, there s no way we can find to pay this claim.

Purcell said it wasn t the City Police Officer who did the damage, it was the felon who was fleeing. Devine said both vehicles went through it, the Police Officers were stuck in his field. They were part of it. They were stuck in there and had to be pulled out of his field.

MOTION by Devine, to pay the damage claim of Clarence and Mary Bott.

Motion failed due to a lack of a second.

MOTION by Patton, SECOND by Ewing-Holmstrom, to deny the damage claim of Clarence and Mary Bott.

Haywood asked why they didn't file with the State since he was a parolee. He could have filed with the State also.

VOTE ON THE MOTION WAS HELD AT THIS TIME.

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

Purcell said the next item is for Belva and Randy Chambers and he has a request for them to speak.

Vincent said this is a sewer back up claim. The primary reason the City Attorney's office is recommending denial of this claim. There is no prior notice of any defects of this line. He said Mrs. Chambers has contacted the Public Works Department but did not come down and fill out the paperwork to get records. We have found no records of any prior maintenance for this line. He said if Council wants to consider this claim, we would recommend \$875.28 as the appropriate amount.

Belva Chambers, 5807 NW Elm Avenue said on March 16, 2004 she received a call from her son saying the house was flooding with raw sewage. They called the City and they rodded the sewer line. The City sewer line was blocked. Her husband had to leave work to come home and deal with this problem. They are not asking for loss of wages. They had to tear up carpeting in three bedrooms and the hallway and are not asking for reimbursement of their labor. They asked the City for the records of the past 15 years to prove they have been out to rod the City sewer line on previous occasions. They were told they could have the information, but then they called back and said it could only be released to the City Attorney. She asked Council to do what is right. She said she understands the law protects the City from having to pay anything because this is the first time it actually flooded their home. This law is as wrong as if we didn't have to pay for our first car wreck, our first speeding ticket, etc. The City did damage to their home and Council should accept responsibility for that damage. Chambers said her and her husband work hard for the money they earn and for the City to walk away and pay nothing for this damage is not right. She said they do need what little money Council is willing to pay to try and restore their home to the way it was prior to the sewer backup. She asked Council to put themselves in their place. If this happened to them, wouldn't they want reimbursement? She asked Council to do what is morally right and show Lawton that they actually care for its citizens.

Purcell said members of this City Council have the same responsibilities and follow the same law as every citizen in the City of Lawton and despite the perceptions out there that special treatment is given to members of this City Council, he wanted to set the record straight, that is absolutely false. Anything that happened to a City Council Member, they would be standing down there, they would want their money back, most likely, but they would be in the same position.

Ewing-Holmstrom said she had a house on Trenton Avenue that had sewage backup twice. She said she is from the era where if something bad happens, you just fix it and move on. You don't look for blame or to get paid. She said they had to call a plumber out twice and paid the fee. She never could figure out if it was the City's fault or whose fault it was, they just paid it and bought the new carpet in the bathroom and moved on. She said she never filed a claim, so she does know how Chambers feels, she's been there.

Bass asked Chambers how she came up with the \$875.28 figure. Chambers said that was the figure the City Attorney came up with. The claims they turned in were for \$1,400. Vincent said on property damage claim involving carpet, linoleum, and things like that, depending on the age of the carpet, there's a depreciation schedule they apply. We can only reimburse them for the value at the time of damage, not for replacement costs. That's the basis for that number.

Patton asked if they ever got an answer about prior backups. Vincent said Chambers contacted the Public Works Office and talked with Beverly on July 7th, asking for records. Beverly contacted our office and we told her to send the records to us and we would submit them to Chambers. He said Beverly called his office today and said there has never been any work done on that line in the past three years and that's as far back as we can go.

Shanklin said he is ready to pay the lady. We have done this almost 100% and she has had this for the second time, so that \$875 he thinks should be paid.

MOTION by Shanklin, SECOND by Warren, to approve the damage claim of Belva and Randy Chambers in the amount of \$875.28 and all attending documents (resolution and court files). AYE: Bass, Givens, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren. NAY: None. MOTION CARRIED.

Patton wanted to let everyone listening to be sure and get the backup of sewer and drain endorsement on your policy because normal insurance does not pay for that if it comes from outside your line. It's a very cheap endorsement and it's food for thought for everybody.

3. Consider the following damage claims recommended for approval: Connie Labrecque, David and Karen Klingler.

Patton asked if it is strict liability when someone is driving down the road and gets hit with a rock from a lawnmower. Vincent said yes, lawn mowing is considered a hazardous activity and we re suppose to inspect the area prior to mowing, but they miss rocks, etc. and sometimes a guard will fall off a mower.

MOTION by Patton, SECOND by Shanklin, to approve the damage claims of Connie Labrecque, David and Karen Klingler Connie Labrecque. AYE: Givens, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Bass. NAY: None. MOTION CARRIED.

4. Consider granting a Quit Claim Deed for the alley in Block 109 of Lawton View Addition to Lawton Urban Renewal Authority (LURA) and authorize the Mayor and City Clerk to execute the deed, and consider the abandonment of two sewer lines which are not in service located in the alley in Block 109 and in the alley in Block 120 both of Lawton View Addition. Action: approved.
5. Consider renewing the Retainer Agreement for Professional and Legal Services with McAfee & Taft labor-related issues as they effect the City of Lawton and authorize the Mayor and City Clerk to execute the agreement. Action: approved.
6. Consider adopting a resolution authorizing the Mayor and City Clerk to execute the Project Agreement with the Oklahoma Department of Transportation for Traffic Signal Installations and Intersection Modification at SH-7 (Lee Boulevard) and S.E. 45th Street in the City of Lawton, Project Number STPY-116A(092)TR, Job Piece No. 20751(04). Action: approved.
7. Consider accepting the Lake Helen Fish Habitat and Access Improvement Project #2002-10 as constructed by Bruton Construction, Inc. and placing Maintenance Bond into effect. Action: approved.
8. Consider awarding a construction contract to Bowles Construction Company, Inc. for the West Cache Road 24" Waterline Phase I Project #2003-11.

Shanklin said the amount of money involved, \$385,000, will free up the 18 line and he just wanted the public to see how we have spent some of their money. In freeing up the 18 line, he asked when a schedule would be set as to when someone wants to tap onto it and what that price would be.

Ihler said they had a meeting on this very subject this afternoon. There were three alternatives presented to look at, as it related to a development fee. After the meeting we decided to go back and fine tune the study we had put together and we will be presenting something to Council in the form of a letter, within the next 2 to 3 weeks. He said it s not necessarily a tapping fee to that main, we have prepared an equity fee or a development fee that would address all the commercial property and residential property, etc., that would tie into that main as a secondary. The taps would be paid for as a residential permit, which could be done in two stages; one as a permit when the house is built, or it could be done at the construction stage, at the development area, when the development is approved.

Mitchell asked what was the construction time line for this project. Ihler said this project has 160-calendar day schedule.

Devine said he heard there was some word going around that we are going to try to get away from doing taps on our mains, going back to the contractors. He said he thought at one time we were suppose to be looking into that, where Public Works would do all the taps to all of our mains, on our water. That s the way we were going to set a fee and he and Shanklin had discussed this with Council, that we need to start setting a fee so we can recover some of our money. We are letting the general contractors do the small taps and we did some of the large ones. He said he received an example of the cost for the new Custard Shop on Cache Road. We charged them a fee that was only about 1/3 of the actual cost.

Mitchell said if that is Council s interest, we need to go back and review the ordinance. The present ordinance says the taps will be made by the plumber.

Devine said he understands that, but the revenue we re losing and the expenditures we have is because we are not charging anybody for tapping onto our mains. It s the same thing on this 18 and 24 we have out there, that we are spending \$385,000 to have a new line put in and we re not charging them anything to tap onto this. We need to get that in where our City Employees do the taps because the minute the contractor walks away from that main, the responsibility of the City of Lawton s if it leaks.

Ihler said between the main and meter, becomes the City s responsibility. Devine said yes and we re letting someone else do that and they re getting the revenue from it and we re totally responsible for it, the minute they walk away from it. Ihler said he believes so. Devine said we need to start looking at changing that ordinance.

Shanklin asked if this tapping fee was retro active. Ihler said we have talked about a development fee that would be done at the permit stage, when a home is built in a development area. At the time of the permit they would pay a water tap fee and a sewer tap fee. Shanklin said in Norman, the fee is \$1,100. Ihler said yes, it s somewhere in that neighborhood, depending on the size of the house. Shanklin asked if the ones who have already tapped on will get away for free. Vincent said if you are talking about the people who gave us the easements to put the 24 in, part of their contract with us for the easements was the tap. Those are the only ones he knows of right now, who have tapped the 18.

MOTION by Shanklin, SECOND by Warren, to approve awarding a construction contract to Bowles Construction Company, Inc. for the West Cache Road 24" Waterline Phase I Project #2003-11. AYE: Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Bass, Givens. NAY: None. MOTION CARRIED.

Purcell said he believes he heard this was to be brought to the City Manager for a change to the ordinance, which will say the City will do all tapping on all water mains. Mitchell asked if this was for all taps, or anything over 5/8. Devine said it s for all taps. Purcell said the Manager will bring back an ordinance to that effect. Mitchell said he wanted to make sure that included all labor, the taps, and materials.

9. Consider approving plans and specifications for the Highland Cemetery Road Overlay Phase I Project #2004-8 and authorizing staff to advertise for bids. Action: approved.

10. Consider adopting a resolution opening a transfer account with International Bank of Commerce (formerly Local Oklahoma Bank). Action: approved.

11. Consider approving the construction plans and specifications for a public water main extension to serve a site located at 5209 SW Lee Boulevard. Action: approved.

12. Consider approving Council Policy No. 7-4, which will permit the Mayor and City Clerk to execute releases of mortgage and/or lien in instances where the participants in the CDBG and HOME housing programs have satisfied all of the requirements of their obligations under their agreements with the city and authorize the Mayor to execute the policy. Action: approved.

13. Consider approving a second amendment to the cooperative agreement with the Housing Authority of Lawton, Oklahoma for the administration and operation of an affordable tenant-based rental assistance (TBRA) housing project and authorize the Mayor and City Clerk to execute the document. Action: approved.

14. Consider rejecting all bids and authorize staff to readvertise.

Shanklin said this was for the easements and he thought it was for the program we discussed. He said he thought we all agreed that we were going to try to find ways to clean up our right-of-ways and/or easements, Citywide.

MOTION BY Shanklin, SECOND by Devine, to reject all bids and authorize staff to re-advertise. AYE: Ewing-Holmstromm, Shanklin, Patton, Haywood, Warren, Bass, Givens, Devine. NAY: None. MOTION CARRIED.

15. Consider adopting a street light resolution to authorize the removal of a light at the SW corner of SE 7th Street and Interstate Drive. Action: approved.

16. Consider approving the following contract extensions: Banking Services (RFPCL01-016) with IBC Bank formerly Local Oklahoma Bank; Water Meters, Parts and Service (CL03-062) with Sensus Metering Systems formerly Invensys Metering Systems; Liquid Oxygen (CL03-072) with Airgas Mid South Inc.; Testing Services (CL03-069) with QuanTem Laboratories, L.L.C.; Practice Ammunition (CL03-068) with The Hunting Shack, Inc.; Rental Equipment (Items 1-4) with Kirby-Smith Machinery; Rental of Portable Restrooms (CL04-002) with ARA Equipment Rentals. Action: approved.

17. Consider awarding contract for Hydraulic Pump and Cylinder Repair (CL04-068). Action: approved.

18. Consider awarding contract for Traffic Signal Parts and Equipment (CL04-073). Action: approved.

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

20. Consider approval of payroll for the period of June 7, 2004 to June 20, 2004. Action: approved.

OLD BUSINESS ITEMS:

21. Consider a request for a revocable permit for the placement of a masonry and wrought iron fence and asphalt surfacing in the easement located at 8211 NW Stonebridge Court.

Deborah Jones, Acting Planning Director, said this item was tabled on June 11th in order for the applicant to attend the meeting. An application for revocable permit was submitted by Layton, based upon the installation and construction of a fence and supports along his rear property line at his personal home. The fence is located in the 25-foot utility easement to the rear of his home. He was advised at the time he obtained the building permit for his house, that an additional building permit would be required for the fence and the proposed concrete footing would not be allowed within the utility easement. She said that was clearly marked on the building permit and on the 19th of March. A letter was sent to Layton directing him to remove all the masonry support, the concrete footings and the brick column within the utility easement.

On the 16th of April Layton filed an appeal for a revocable permit. Jones said the Public Works Division has reviewed this request and objects to its issuance. She has received a letter from Centerpoint Energy also objecting to the issuance of this permit. AEP does not agree with the asphalt in the easement which may interfere with future maintenance of its underground cable. Southwest Bell and Lawton Cablevision has also issued objections to the issuance of the permit.

Ewing-Holmstrom verified with Jones that Layton was informed he could not build this fence. Jones said yes he was informed.

Purcell said this is another example. We have ordinances and we never enforce them. He said we have another item coming up with the same issue. He said whatever the pleasure of Council, but if we are going to grant this, he would recommend bringing back a change to the ordinance and do away with the ordinance. We can't keep having ordinances that some people comply with and some don't. He said the biggest objections he hears from citizens is inconsistency. We need to consider if we want this ordinance to remain in place.

Ewing-Holmstrom said one of the things to consider is to fine homeowners and/or builders \$1,000 or some type of fine, who are blatantly disregarding the instructions given to them. She said if we are going to do it for one, we need to do it for everybody. She stated this is not right and we are not evenly doing it.

Patton said we should hear what Layton has to say and get his side of it.

Layton, 4512 SW Cherokee, said he owns the property at 8511 NW Stonebridge Court. He passed out information to the Council. He said he is requesting the appropriate permit for fencing, columns, walls, and gate structures on the extreme north outer perimeter of 8211 Stonebridge, which encompasses an easement 25 feet from north to south by just under 350 from east to west, as well as the entire perimeter of the property side yards. He said he is not requesting permission to pave any of the easement. The fence structures have been partially constructed and when completed, will allow reasonable access to all involved utilities. There is access for repair, replacement, or expansion of these utilities as may be necessary in the near or extended future. He said there are easement ways to the west and east, which provide additional access to the neighboring lots on Block 1, where his lot is located.

The concrete structures supporting the fences and the gated wall that cross the easement contain openings which allow utility lines within 3 feet of the ground surface, access to pass through. He said all the utility services in this area are below a depth of 3 feet and are accessible by conventional backhoe or trench digging. Therefore, the existing structures allow for repair, replacement, or expansion without being removed or altered. Layton said he has received approval from all neighboring property owners and from the Stonebridge Homeowners Architectural Committee for these structures. His easement can be entered if necessary, through his driveway, as the openings and driveway are wide enough and strong enough for a 30-ton equipment truck to use. There should be no need to remove any of the structures as they allow access to all utility easements. He said upon request, he will open any or all the gates as necessary. He said he regrets not following all City Codes guidelines, but hopes Council will recognize these structures satisfy the intent of the City Codes, which provide for access to utilities and maintenance of the areas by the property's custodian. He said issuing a permit will not adversely impact the repair, maintenance, expanding of service, or cost to the utility companies. He said neither will it be a detrimental effect on public health or safety. The entire home and outer structures are all designed and built above and beyond current standards and well beyond minimum Lawton City Codes, using FEMA guidelines to withstand high winds in an effort to reduce the chances of destruction as what occurred a few years ago in Pecan Valley.

Shanklin asked Layton when he found out about revocable permits. Layton said when he was originally turned down, he thought he would have to apply for a Use Permitted On Review, which was in 2002 when this was presented. After the first of this year he contacted a member of City staff and was informed this would be the process he would need to go through. Shanklin asked if he was forewarned that we have a revocable permit.

Layton said yes he was. Shanklin asked if he decided not to follow it. He said we didn't have a revocable permit at one time and about 4 years ago got the revocable permit put back in, whereby the Council could make these decisions. He said if this had come to him prior to any of this action, he would have voted for it. The utilities are not being obstructed, in his opinion.

Warren said he is really conflicted on this because had the prior knowledge not been there, it would have been a little harder to make a decision, but Layton had prior knowledge this was not allowed. He said he has to agree with Ewing-Holmstrom and the Mayor. He said we have to come to some decision on what we are going to do.

Warren said he had always been a defender of the right of the property owner, to do with that property what they want. They pay the bills on that property and if they want to build a house back there, he said he's always felt they should be able to do that. He believes that land belongs to the property owner, but we need to decide. We can't let

some people do it and others not. He said he votes with letting the property owner do what they want to do and pay the piper when the time comes. The problem you run into there is if Layton sells his property to someone else and the City of Lawton goes in there and does \$20,000 worth of damage to the pavement and the fence, then he's going to be right here in front of this Council asking where his money is. He said the point is, is the Council, in fifteen years, going to have the fortitude to say that's their problem. That was built in the easement, so go on about your business. We have to do something.

Ewing-Holmstrom asked Layton why he built this when he knew he wasn't supposed to. Layton said he needed the turn-around access on the northeast area and he believes this is the appropriate thing to do. Ewing-Holmstrom said when he knew the City said he couldn't and it even said that on his paperwork, he did it anyway because he thought it was appropriate. Layton said he believes there are other avenues he could pursue to have it approved. Ewing-Holmstrom asked if he was going to be fined \$1,000, would he still have done it. Layton said yes, for a one-time fine. Ewing-Holmstrom also added, and forced to remove it. Layton said no.

Ewing-Holmstrom said this is the problem we run across all the time. We are faced with this dilemma and how do we apply it. She said she gets the feeling from Layton that he wasn't concerned the City could do anything about it. She said that's why Layton just went ahead and did what he wanted because the Council couldn't do anything about it. She said if it was up to her, she would make him move it because he was instructed he couldn't do that, but he did it anyway.

Devine said the whole purpose of getting the revocable permit back a couple years ago was because of circumstances just like this. He said you could go back and change the ordinance but you don't need to change it because the whole purpose of the revocable permit was to allow somebody to do something that was not necessarily culture, but was given them the forewarning that at anytime a utility company needed to come through there, they give him notice and he can either remove it or they will remove it for him and he will be charged whatever charge it is. Vincent said he is to be given notice, if possible. Devine said that's the whole purpose of the revocable permit and he doesn't have a problem with it. He said he wants to see growth in this city. He said this man is trying to enhance his home by putting up a nice, beautiful fence that's going to look good in his community and is trying to do something right. To say he can't do that, we need to go back bust out all the paved allies, etc. We have ordinances that say they can't do it, but we do it and all at once we decide to jump on this man's case. Maybe he did make a wrong decision, and Devine said he wasn't taking up for Layton, but everyone else does that and it is done throughout this City and we make exceptions. That's why the revocable permit was designed for that reason.

Shanklin said that was the whole idea. To let these people take care of their property and build whatever they want to build. We never said they could build something over a gas line. If it sits back there 10-15 feet because the Code says you can't do it, that was the whole idea of the revocable permit.

Devine said he doesn't have a problem with it and supports giving him a revocable permit and allowing the fence to be finished. He said it should be required that the revocable permit be a part of his deed so the next property owner, if he ever decides to sell it, is in plain black and white English, right there when they read it and that is done in legal terms and everything that has been done to the property and all legal descriptions, the buyer is aware of it. When the new owner buys it, it is going to be right in front of them and will be read to them that there is a revocable permit that the fence can and will be torn down at anytime a utility company needs to move through there.

MOTION by Devine, SECOND by Patton, to approve a revocable permit for the placement of a masonry and wrought iron fence and asphalt surfacing in the easement located at 8211 NW Stonebridge Court and direct staff to bring back appropriate changes in the ordinance.

Givens asked if the revocable permit was filed in the property records. Vincent said he believes we did have a clause 9 on this one that says it will be filed of record. He pointed out that this permit is not transferable to any subsequent property owners and even though it's filed of record and will become part of his abstract, the new property owner will have to come in and talk with Council and get another one. Givens said if it's in the property records and the abstract is examined for the next purchaser, they will know that this structure is in the City easement. There is notice, in that regard, even without filing the revocable permit. Vincent said it's filed in the County Clerk's office and becomes a part of his abstract.

Warren said about 8 months to a year ago, there was a gentleman who wanted to build a deck in his back yard. This was about a \$250 deck and he believes Council ended up not letting him do that. Ewing-Holmstrom said oh no, they voted for him, they let him do it. She said every one of these, since she's been on Council, has been approved. Shanklin said he thinks we turned him down.

Purcell commented on what he said before about changing the ordinance because what we are doing, the ordinance needs changed and do away with all these revocable permits. If that's what the Council wants, we give revocable permits every single time, so why go through this whole drill, put citizens through this, if we are going to

give revocable permits every time, let's write the ordinance in such a way that when they build something there, it goes with the revocable permit. Right now we have an ordinance that says you can't and then we have this ordinance that says you can do revocable permits and we give them in every single instance.

Patton said that is one of the things he worked with Tim and Keith on. This was one of the areas we talked about, not just the easement clean up, but as well, cleaning up the Code and coming up with a policy that makes sense, that works for everybody.

Purcell said it is the position of the Council is to direct the staff to come back with something and change the ordinance in some way where we don't have to do revocable permits every single time. He said the seven years he's spent on Council, they have approved every single revocable permit and it continues today. Warren said the City would still attach to the abstract. Purcell said absolutely, everything would stay the same, it would still be a revocable permit, but it saves the citizens time, the Council time, and saves the heartburn that goes on with this every time, the uncertainty, the delay, and all this, if we just write it in the ordinance in such a way they get a revocable permit.

Purcell asked if it was also a part of the motion that we direct staff to bring back some kind of changes in the ordinance that makes sense and don't have to put people through this. He asked Devine if he would agree to that being part of his motion. Devine said that was fine. Purcell asked if that would be agreeable to Patton's second. Patton said yes.

VOTE ON MOTION WAS HELD AT THIS TIME.

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

BUSINESS ITEMS:

22. Hold public hearings and adopt resolutions declaring the structures at: 504 SW G Avenue; 913 SW 36th Street; 1714 SW B Avenue; 620 SW 23rd Street; 1401 NW Baldwin Avenue; 1817 SW Garfield Avenue; 2013-2015 NW 24th Street; 2410 SW Jefferson Avenue; 2005 NW Sheridan Road; and 2007 NW Sheridan Road be dilapidated and dangerous, thus causing a blighting influence on the community and detrimental to the public's health and safety. Authorize the City Attorney to initiate legal action declaring a public nuisance in District Court and Neighborhood Services to solicit bids to raze and remove structures, if appropriate.

504 SW G Avenue

Angie Alltizer said this is a fire-damaged accessory structure in the back of the property. She has spoken with the property owner and a representative of the owner, who advised her they plan on removing the structure and would take advantage of the half off at the landfill.

PUBLIC HEARING OPENED AND CLOSED WITH NO PARTICIPANTS.

MOTION by Warren, SECOND by Bass, to approve **Resolution No. 04- 89** declaring the structures at: 504 SW G Avenue be dilapidated and dangerous, thus causing a blighting influence on the community and detrimental to the public's health and safety. Authorize the City Attorney to initiate legal action declaring a public nuisance in District Court and Neighborhood Services to solicit bids to raze and remove structures, if appropriate. AYE: Haywood, Warren, Bass, Givens, Devine, Ewing-Holmstrom, Shanklin. NAY: None. MOTION CARRIED.

*Patton was out of room during vote.

913 SW 36th Street

Alltizer said this structure was scheduled for a Public Hearing in August 2002 and at the time someone appeared and said they did not own the property any longer. At this time the property has been repossessed and are bringing it back to Council for consideration for condemnation. She said it's in pretty significant disrepair and the roof has actually collapsed through the trusses in several places and is not habitable at this point. We have not expended any money on abatement for tall grass and weeds at this point.

PUBLIC HEARING OPENED AND CLOSED WITH NO PARTICIPANTS.

MOTION by Ewing-Holmstrom, SECOND by Bass, to approve **Resolution No. 04- 90** declaring the structures at 913 SW 36th Street be dilapidated and dangerous, thus causing a blighting influence on the community and detrimental to the public's health and safety. Authorize the City Attorney to initiate legal action declaring a public nuisance in District Court and Neighborhood Services to solicit bids to raze and remove structures, if appropriate. AYE: Haywood, Warren, Bass, Givens, Devine, Ewing-Holmstrom, Shanklin. NAY: None. MOTION CARRIED.

*Patton out of room during vote.

1714 SW D Avenue

Alltizer said this is a single residential structure. She said certified letters were sent out in May advising property owners of what violations needed correcting. A permit was not obtained, nor were any of the repairs made, which is why this is being brought before Council. We have spent a small amount on this property, mowing it twice in the past year.

PUBLIC HEARING OPENED AND CLOSED WITH NO PARTICIPANTS.

MOTION by Warren, SECOND by Ewing-Holmstrom, to approve **Resolution No. 04- 91** declaring the structures at 1714 SW D Avenue be dilapidated and dangerous, thus causing a blighting influence on the community and detrimental to the public's health and safety. Authorize the City Attorney to initiate legal action declaring a public nuisance in District Court and Neighborhood Services to solicit bids to raze and remove structures, if appropriate. AYE: Warren, Bass, Givens, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

620 SW 23rd Street

Alltizer said this is an accessory structure in the rear of the property and letters have been sent to the property owners asking them to repair or remove the structure. This structure is in a very dilapidated condition and she has received no response from the property owners at this time.

PUBLIC HEARING OPENED AND CLOSED WITH NO PARTICIPANTS.

MOTION by Ewing-Holmstrom, SECOND by Patton to approve **Resolution No. 04- 92** declaring the structures at 620 SW 23rd Street be dilapidated and dangerous, thus causing a blighting influence on the community and detrimental to the public's health and safety. Authorize the City Attorney to initiate legal action declaring a public nuisance in District Court and Neighborhood Services to solicit bids to raze and remove structures, if appropriate. AYE: Bass, Givens, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren. NAY: None. MOTION CARRIED.

1401 NW Baldwin Avenue

Alltizer said this structure is a mobile home with a couple adjacent accessory structures and has been a problem property for Neighborhood Services for the last couple years. This goes along with efforts to clean up Zone One area. There has been a chronic problem with vagrants and vandalism in this area. When they went out this afternoon to take photos, there were people actually camped out inside the mobile home. There has been no response from the property owner at this time.

PUBLIC HEARING OPENED AND CLOSED WITH NO PARTICIPANTS.

MOTION by Givens, SECOND by Ewing-Holmstrom, to approve **Resolution No. 04- 93** declaring the structures at 1401 NW Baldwin Avenue be dilapidated and dangerous, thus causing a blighting influence on the community and detrimental to the public's health and safety. Authorize the City Attorney to initiate legal action declaring a public nuisance in District Court and Neighborhood Services to solicit bids to raze and remove structures, if appropriate. AYE: Givens, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Bass. NAY: None. MOTION CARRIED.

1817 SW Garfield Avenue

Alltizer said this is a single residential structure and Neighborhood Services expended \$258.73 for securing of this property in the last year. It has been a chronic problem with vagrant activity in the area and staff is recommending Council to condemn it so we can go ahead and proceed through District Court because we have had no contact from the property owner up to this point.

PUBLIC HEARING OPENED AND CLOSED WITH NO PARTICIPANTS.

MOTION by Haywood, SECOND by Ewing-Holmstrom, to approve **Resolution No. 04- 94** declaring the structures at 1817 SW Garfield Avenue be dilapidated and dangerous, thus causing a blighting influence on the community and detrimental to the public's health and safety. Authorize the City Attorney to initiate legal action declaring a public nuisance in District Court and Neighborhood Services to solicit bids to raze and remove structures, if appropriate. AYE: Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Bass, Givens. NAY: None. MOTION CARRIED.

2013-2015 NW 24th Street

Alltizer said this is probably one of their more significant problems in this area of the community. It is a duplex

residential structure and we have expended over \$900 over the last three years to mow this property. It hasn't had City utility service for about ten years and is in fairly poor condition.

PUBLIC HEARING OPENED AND CLOSED WITH NO PARTICIPANTS.

MOTION by Bass, SECOND by Ewing-Holmstrom, to approve **Resolution No. 04- 95** declaring the structures at 2013-2015 NW 24th Street be dilapidated and dangerous, thus causing a blighting influence on the community and detrimental to the public's health and safety. Authorize the City Attorney to initiate legal action declaring a public nuisance in District Court and Neighborhood Services to solicit bids to raze and remove structures, if appropriate. AYE: Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Bass, Givens Devine. NAY: None. MOTION CARRIED.

2410 SW Jefferson Avenue

Alltizer said she requests Council take no action because the property owner has been working very diligently to correct the violations. She said when they went out this afternoon to take the pictures, he did have two individuals on site who were working on this property and staff feels this definitely should not be on the dangerous and dilapidated list in its current condition today.

Warren asked if the homeowner could receive some type of award. Alltizer said he has done a great job and we do appreciate that.

MOTION by Devine, SECOND by Haywood, to remove 2410 SW Jefferson Avenue from the D & D List. AYE: Patton, Haywood, Warren, Bass, Givens, Devine, Ewing-Holmstrom. NAY: None. MOTION CARRIED.

*Shanklin out of room during vote.

2005 NW Sheridan Road

Alltizer said the last two structures are both voluntary condemnations. The property owner would like Council to condemn both properties so they may raze and remove the structures and redevelop the property.

PUBLIC HEARING OPENED AND CLOSED WITH NO PARTICIPANTS.

MOTION by Givens, SECOND by Bass, to approve **Resolution No. 04- 96** declaring the structures at 2005 NW Sheridan Road be dilapidated and dangerous, thus causing a blighting influence on the community and detrimental to the public's health and safety. Authorize the City Attorney to initiate legal action declaring a public nuisance in District Court and Neighborhood Services to solicit bids to raze and remove structures, if appropriate. AYE: Patton, Haywood, Warren, Bass, Givens, Devine, Ewing-Holmstrom. NAY: None. MOTION CARRIED.

*Shanklin out of room during vote.

2007 NW Sheridan Road

PUBLIC HEARING OPENED AND CLOSED WITH NO PARTICIPANTS.

MOTION by Givens, SECOND by Devine, to approve **Resolution No. 04- 97** declaring the structures at 2007 NW Sheridan Road be dilapidated and dangerous, thus causing a blighting influence on the community and detrimental to the public's health and safety. Authorize the City Attorney to initiate legal action declaring a public nuisance in District Court and Neighborhood Services to solicit bids to raze and remove structures, if appropriate. AYE: Haywood, Warren, Bass, Givens, Devine, Ewing-Holmstrom, Patton. NAY: None. MOTION CARRIED.

*Shanklin out of room during vote.

Purcell announced that tonight will be Angie Alltizer's last Council meeting. She will be leaving the City and heading to Iraq in the near future and wish her the best.

Alltizer said she certainly appreciates that. She thanked the Council, all her co-workers and the citizens. She said it has been a great four years and plan on seeing her next July or so. She has taken a job with Haliburton KBR as an Environmental Co-coordinator to go to Iraq.

Purcell said we have people who have traveled from Oklahoma City on the addendum and have been sitting out here, so we will move to the addendum at this time.

ADDENDUM ITEM:

1. Consider authorizing the City Clerk to file a Release and Waiver of lien for all City liens issued against the real

property at Block 13, Lots 1-3, Gooch Acres Addition to the City of Lawton, a/k/a 2235 NW Hoover Avenue, Ft. Sill Garden Apartments.

Vincent said the McSha Properties contacted the City Manager today and asked where the release of lien was. We had not heard about this situation where they're closing on it so quickly. We are proposing to release the lien and waive the demolition at this time. There will be a release filed in the County Clerk's office, however, the resolution of demolition will stay on board so if they don't follow through and do what they're supposed to do, the Council can come back at some point, resurrect the resolution and go forward with the demolition.

MOTION by Bass, SECOND by Haywood, to file a release and waiver of lien for all City liens issued against the real property at Block 13, Lots 1-3, Gooch Acres Addition to the City of Lawton, a/k/a 2235 NW Hoover Avenue, Ft. Sill Garden Apartments. AYE: Warren, Bass, Givens, Devine, Ewing-Holmstrom, Patton, Haywood. NAY: None. MOTION CARRIED.

*Shanklin was out of room during vote.

Purcell announced a ten-minute recess at this time.

The Mayor and Council recessed at approximately 7:45 p.m. and reconvened in regular, open session at approximately 7:55 p.m. with roll call reflecting all members present.

Purcell said Patton requested going to item #28 at this time.

23. Consider a request for a revocable permit for the placement of a wooden deck on the easement located at 1628 NE 31st Street.

Deborah Jones said this is a request for a revocable permit for the placement of a wooden deck on the rear easement of the property located at 1628 NE 31st Street. The application was filed by Jack and Sharon Freeman, the deck was constructed without a building permit. On the 19th of March a letter was sent to the contractor who constructed the deck, directing him to remove the wooden deck from the utility easement, on April 4th the Freemans filed their application for the revocable permit. This application has been sent to the Director of Public Works and all utility companies. The Director of Public Works has reviewed the application and objects to the issuance of the permit and indicates the repair or maintenance of this sewer main would cause damage to the deck. AEP does not object to the placement of the deck, Centerpoint and Lawton Cablevision had their facilities located partially outside the utility easement on private property and have commenced relocations to move their facilities back within the easement boundaries, and both object to the issuance of the permit. Southwestern Bell did not reply to our request for information.

MOTION by Warren, SECOND by Bass, to allow the revocable permit for the placement of a wooden deck on the easement located at 1628 NE 31st Street, with the caveat that Vincent be reminded to bring back an ordinance that will someday fix this.

SUBSTITUTE MOTION by Ewing-Holmstrom, to deny the issuance of the revocable permit for the placement of a wooden deck on the easement located at 1628 NE 31st Street and support our staff in their findings.

Purcell said the substitute motion failed due to a lack of a second.

VOTE ON ORIGINAL MOTION TAKEN AT THIS TIME.

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

24. Consider approving the record plat for The Enclave, Part One, and accepting the improvements, an escrow agreement in lieu of completed improvements, maintenance bonds, and easements outside the platted area.

Jones said The Enclave, Part One is located a quarter mile north of Cache Road and east of 38th Street. It consists of 31 single-family residential lots on 9.25 acres. It's proposed as a gated residential subdivision. The developer is Morford Land Leasing Company and the consulting engineer was Landmark Engineering. On the 24th of June, the CPC conditionally approved this plat and all those conditions have been met at this time. Staff recommends approving the plat, subject to further condition. Since CPC reviewed the plat, has substantial erosion control problems and the Oklahoma Department of Environmental Quality has contacted the developer and issued a warning letter calling for some substantial improvements to hopefully reduce the potential of the erosion control problems we have had in the past. They will be inspecting again tomorrow, so staff recommends approval of this plat, subject to withholding the release of the plat, for recordation purposes, until the Department of Environmental Quality approves the erosion control measures.

MOTION by Bass, SECOND by Patton, to approve the record plat for The Enclave, Part One, and accepting the improvements, an escrow agreement in lieu of completed improvements, maintenance bonds, and easements outside the platted area, subject to withholding the release of the plat, for recordation purposes, until the Department of Environmental Quality approves the erosion control measures. AYE: Shanklin, Patton, Haywood, Warren, Bass, Givens,

Devine, Ewing-Holmstrom. NAY: None. MOTION CARRIED.

25. Consider approving and authorizing a utility account adjustment to Medicine Park Water Authority due to several underground leaks discovered on their water line.

Endicott said this is a request from Medicine Park to provide an adjustment to their account under the Code provision for underground, undetectable leaks. They have submitted a request in writing for \$1,510.06.

MOTION by Shanklin, SECOND by Devine, to approve and authorize authorizing a utility account adjustment to Medicine Park Water Authority due to several underground leaks discovered on their water line.

Warren asked why this is the City's fault. He said the leak is on the other side of the meter and how did this become our fault? Endicott said he would love to see the removal of that part of the ordinance, but that's a Council decision. Warren said he doesn't have a problem paying it, he just didn't really understand why we did it.

Devine said if you had a slab floor at your home and had a leak and didn't know it, underneath that slab, it could leak several thousands of gallons of water and you'd never know it. We developed this ordinance to help some people who couldn't afford to pay a \$250-300 water bill at a residential. With this ordinance, it was an adjustment to help people when there was a problem and it was an undetected water leak. The original design of this was to help people that couldn't afford it when it was underneath their house or somewhere undetected.

Warren said it seems we are not into helping the people who can't afford it, we're into helping those who can afford it. Shanklin said we are trying to be fair and equitable with everyone. Some can pay and some can't. Warren said his point is, right now, how many dollars in the last year that we have returned to people that couldn't afford to pay versus the people who had a \$1,000 bill or a \$1,200 bill or up, we are on the wrong end of that.

Endicott said we don't look at affordability, we don't look at age, and we don't look at income.

Warren said we are spending our biggest dollars in thousands.

Endicott said Council said anything over \$500 was to be brought to Council and Council approves, anything less than \$500 the City Manager approves. We have more smaller amounts we adjust than we do the larger ones.

Ewing-Holmstrom said in their letter the leaks were caused by bombing exercises at Fort Sill, which occurred in May and that's when all these leaks were discovered. She asked what is being done to insure no more leaks happen.

Endicott said the only thing we can do, which is by the Code, is require a plumber and a statement of who fixed what. He sent this to the City Attorney's office and received word back to take this to Council and let them decide.

Ewing-Holmstrom asked if Medicine Park has ever come to us before with undetectable leaks caused by training exercises. Endicott said no.

Shanklin said we want everybody who uses our water to pay for what they use. It would be easy for him to vote against Medicine Park because of the way they treated us when we were trying to get a permit to expand our water treatment plant. He said he would like to say it's pay back time, but that's still not fair. They are not the enemy, we are all in this same battle together and it's an insurance policy. He said why should one person or a group pay for something he didn't do, it was out of his control. If it was in their control he wouldn't have a problem.

VOTE ON THE MOTION HELD AT THIS TIME.

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

26. Consider approving revisions to Council Policy 2-2 regarding procedures of requesting and issuing legal opinions/memorandums.

Vincent said the current Policy 2-2 only applies to the City Council and there is no policy that applies to the City Manager, Assistant City Manager, or other staff. He said they have written a Policy that will require either a Department Director approval or the City Manager approval before we issue a legal opinion as requested by staff. There's basically no change on a Council request.

Shanklin said if one of us or the Mayor wants a personal opinion, we all should get it. Vincent said if Shanklin came to them for an opinion and instructed to only give it to him, then he has otherwise directed and we would only give it to Councilman Shanklin. If there is no direction, it's going to go to the Mayor, the Council, and the Manager.

Warren said he thinks it should always go. Purcell said he thinks it should always go to everyone on the Council. Shanklin said he thinks it should. Vincent said we can take that out. We can amend it on the floor and rewrite it. Purcell said you only have to delete the words, unless otherwise directed, and asked if that was correct. Vincent said yes and it may be in one other place. We will fix it before we give it to you.

MOTION by Warren, SECOND by Patton, to approve revisions to Council Policy 2-2, including revisions made on the floor, excising the words unless otherwise directed in all instances, regarding procedures of requesting and issuing legal opinions/memorandums. AYE: Haywood, Warren, Bass, Givens, Devine, Ewing-Holmstrom, Shanklin, Patton. NAY: None. MOTION CARRIED.

27. Review City Council Policy 9-1, Special Event Policy for Lake Lawtonka, and take appropriate action, if any.

Devine said he had a request from one of the churches in town to use the part of the lake over the 4th to do their annual picnic and he thought we had a policy where a particular part of the lake was set aside, totally, for the Blvd. of Lights. He said he is not wanting to take anything away from the Blvd. of Lights because that is part of their process to create revenue to help support the Blvd. of Lights. He asked if that was going to be a permanent provision for them every year. Shahan said that was just for this year. Devine said if it was just for this year, he asks that this item be stricken.

MOTION by Devine, SECOND by Bass, to strike item #27. AYE: Warren, Bass, Givens, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

28. Consider adopting an ordinance creating Section 7-1-1-114, Division 7-1-1, Article 7-1, Chapter 7, Lawton City Code, 1995, pertaining to the regulation of car wash businesses by defining car wash businesses and establishing the maximum hours of operation, providing for severability, codification and declaring an emergency.

Patton said he requested the City Attorney look into putting together this ordinance. He said the intent of this ordinance was to limit the times car washes are able to be operated. The actual intent behind that was to try to elevate the problems we have had at certain areas where the residents who live in close proximity to the car washes are being bothered with loud noise and other disruptive things. He said having talked with some Council members and others, we may have to do some tweaking. He said he would be open to putting in some language excluding certain types of car washes and also putting in some type of definition where if the car wash was in a certain number of feet from a residential area, they would have to abide by this, but if they weren't, they wouldn't have to. He said contrary to popular belief, this is not against one car wash. There's another one being built at 21st and Oak, right behind JP Rachard's which is going to effect that residential area, so this is not just about the problem in his area. This is about a problem that could be popping up in other places as well.

Warren asked Vincent if this could be considered an open air retail business and if so, is there a way we could incorporate within the changes what Patton is wanting to make, that we include some kind of verbiage to that affect. He said he doesn't think car washes are necessarily the only businesses like this, there is also drive-ins that play music over their speakers during their open hours. Those could possibly locate within a certain amount of feet of a residential area. Vincent said we currently have a Code that regulates noise as it leaves the property limits, is more what Warren is talking about. If you are talking about excluding car washes with an automatic bay, instead of trying to tweak it here on the floor, he'd rather get together with Patton and get his ideas and re-write this. He said instead of tabling this, he would rather strike it so we would have time to work on it.

Shanklin said we went on the line for this and it was a close decision by the Council to allow him to build it to begin with, and Council was told there wouldn't be a noise problem and that hasn't happened. He would like to hear from Tippin on this since we are the ones who supported him.

Bass asked if we are allowed to control or regulate the hours of a business. Vincent said yes, we control billiard halls, for example, dance halls, there's several businesses we control the hours of.

Devine asked Vincent if it was true that we have an ordinance that states maintaining a nuisance. He asked how much the fine would be for a person who allows something to happen, that would be maintaining a nuisance. Vincent said by definition, he thinks so. Vincent said \$500 a day. Devine said instead of changing the ordinance and making a new ordinance, why couldn't he apply this ordinance to a place where you are having the problem. It seems like, to him, if there is one or two particular places you are doing this, instead of penalizing every place in town, why wouldn't you take our Police Department and file on this establishment because he is maintaining a nuisance. Vincent said that would be under the City Manager, but he agrees, that could be done. Devine said that could be done very easily without having to change ordinances to match. He said if you go to a man's pocket, he guarantees you will get his attention quicker than any other way.

Patton said he is open to anything because he has good constituents who live out there and they don't have sour grapes about it going in there, these folks have legitimate concerns. He said he has heard the noise over the phone when they call him at home. Anything we could do to elevate their suffering, he said he would be open for.

Ewing-Holmstrom said we should clarify the noise we are talking about. Is it the noise from the car wash, the water, the automatic bay, or the spray? Are we talking about the loud noise of stereos in the cars?

Patton said there are two problems. One is the stereo music, the base, thump, thump, thump, and the other is the noise of the dryers on the automatic bay. Unfortunately, the automatic bay is all the way at the north end of the property which is the closest to the houses. Tippins said that is not entirely true. Patton asked if it was at the north end. Tippins said it is not at the farthest north end of his property. There is about another 100 feet from where the automatic is located to the residential rear fence. Patton reiterated he said it was at the north end, he didn't say it was the furthest, but of all his other bays, it's the furthest one out. Tippins said it's the furthest one out but it isn't located at the farthest end of the property.

Purcell asked Tippins to hold on until he gets Council's permission to hear him. Shanklin said he does now want to hear it.

Tippins asked Devine if he has received any phone calls from anybody complaining about the noise at that location. Devine said yes he has. Tippins asked how many phone calls he has received. Devine said as of today, five. Tippins asked Devine how many he had received in the past. Shanklin said we don't do this Mayor, this is not in the Council Policy, Devine's not on trail and if Tippins wants to address Council, address the Council.

Tippins said he has received one phone call since he has been open these last eight months, about loud noise. He said he has heard a lot of people complain about it and has had the Lawton Police making drive-bys twelve times a day. They are stopping and asking him why they are driving by here all the time. Tippins said he asked the officers if they were writing any citations and they said no, they haven't written one. He said he asked the Chief of Police and he's wondering what is going on. Tippins said he is out there all the time and he doesn't hear a problem. He is the only car wash that has full time attendants, seven days a week. He said somebody says there's a problem, but he hasn't quite figured out who they are and when the problem is. He said nobody has come to him and as far as he knows, there's not a problem. He asked if any other Council members have received calls about loud noises at either one of his car wash locations.

Ewing-Holmstrom said the whole time she has been on Council she has never received one call about car washes, until today. They must have read it in the paper and was complaining about the East Gore Car Wash. He said he has never called the police and complained about the noise. There are people out there being disturbed, but we have to figure out what they are being disturbed by. She said it's not just the car washes where these noises are coming from. She said the number one concern is the cars. Cars tend to congregate at drive-in restaurants and at the car washes. She said it's not necessarily Tippin's fault, it's unfortunate his business is attracting it, but that goes back to how much the City Council wants to put in the budget for police to get on the roads, to ticket these people who are violating that ordinance.

Tippins said if someone had come to him about writing citations on his property, then he would admit there must be a problem, but he can't find one officer that has said they ever had a problem with loud music.

Patton asked Deputy Smith if he could address the citation issue. He said he talked with one of his constituents who said he saw a citation being written. Smith said they have written some out there, but very few. Patton asked if they had received any complaint calls from residents in that area. Smith said they have had several calls about the noise out there. He has had calls where his officers were within a block and they get there and nothing was there, no music. He said he had a call from one citizen talking about the noise and when we got right down to it he was talking about the blower. This was after talking with him two or three times about the music, then the subject of the noise from the blower came up. He said now he is getting complaints about the blower. It's a constant deal with music and when the officers get there, there's nobody around. Smith said he believes people are driving by with their thumping music, and people hear them and think they're in the car wash, on some occasions. He said he thinks there have been just one or two tickets written in the car wash.

Shanklin asked Smith if he sees an officer coming that he couldn't turn his radio down. Smith said yes, you can see them coming from a long ways.

Ewing-Holstrom asked about addressing just the automatic dryers. Patton said he understands we are getting a decibel meter, so at this point we do have an ordinance that says you can't exceed a certain decibel level but we have no way of verifying this.

Bass asked about the decibel level and if Patton was talking about after a certain time at night. Patton said no, anytime that ordinance says. Smith said it's 89 decibels and the current ordinance says between June 1st and September 30th.

Patton said he has talked with people who said they have talked with Tippins, so there obviously is a problem over there. Tippins asked how many constituents he has talked with. Patton said he knows he has talked with five different people.

Purcell asked Patton if he wanted to postpone this until a later date so he can work on it. Patton said let s just go ahead and strike it.

Devine told Tippins he wasn t trying to pick on him, he was trying to clarify that we do have the tools to correct a problem, whether his or someone else s. He said he doesn t want to see a time limit for a business to be open and hated to see his or anyone else s business be penalized because of something like this. He said he was trying to speak for all the car washes in Lawton.

Tippins said we are becoming more and more a twenty-four hour society. More and more of our businesses have realized we have to be open twenty-four hours, we have to be able to keep our equipment available for people to use, we have to serve them at different hours of the day, just to make business ends meet.

MOTION by Patton, SECOND by Devine, to strike this item to give more time to work on it. AYE: Givens, Devine, Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Bass. NAY: None. MOTION CARRIED.

Council went back to regular order of the agenda at this time.

29. Consider the donation of two (2) Elk Hunting Permission Permits to the Lawton Elk Foundation to help support the annual work projects of the foundation.

Devine said 2 or 3 years ago we went through a process of being able to take charge of the permits issued on City property for Deer and Elk Hunting. During this he didn t ask for two of the permits to be set-aside for the Elk Foundation because he just forgot it and it was brought to his attention. He said this is something well worthwhile because our Elk Foundation spends thousands and thousands of dollars on our Elk herds in our County and the adjoining counties. He asked for Council s support on issuing them two Elk Permits; one to be given away as a door prize and the other to be auctioned off as a fund raiser for the Elk Foundation.

Shanklin asked if they were about \$40. Devine said yes, there are 10 permits and they just want 2 permits to give away, to raise money with. They are not worrying about the dollars, we can t buy those permits because those permits are drawn each year and this way, two would be set aside for them to use. He said the permits are only \$20. The problem is that everybody puts their name in a hat to be drawn and it s pretty hard to get your name drawn. If we don t set those two permits aside, there is no way of knowing if they are going to get them, because they only issue and draw for 10 permits.

MOTION by Devine, SECOND by Shanklin, to approve the donation of two (2) Elk Hunting Permission Permits to the Lawton Elk Foundation to help support the annual work projects of the foundation. AYE: Bass, Givens, Devine, Shanklin, Patton, Haywood, Warren. NAY: Ewing-Holmstrom. MOTION CARRIED.

30. Consider reducing the Food Handlers Fee from \$15.00 to \$10.00.

THIS ITEM WAS STRICKEN BY THE INITIATOR (DEVINE).

REPORTS:

Givens said at the last Council meeting we had an applicant for a zone change in a residential area and this Council voted to change that to grant C-5 zoning in a residential area. It turns out that the representative of the applicant made several false allegations to this Council. He made several statements, at best, that were incorrect and at the least, was outright fabrication. Givens said he doesn't appreciate it and people shouldn't be able to come down to the Council and stand up before us and make statements that are completely wrong. He said he didn't think any of the Council members were aware he was doing that. That should not be allowed. He said he hadn't found anybody on the Council who seems to be bothered by it and he has spoken to four or five individually. He doesn't want staff to go any further with it and was hoping we could come back with some kind of policy that states on if an item was obtained based on false information or outright lying, it should automatically be reconsidered at the next Council meeting. He said the problem needs to be addressed.

Devine said he can't bring it back until someone who voted in the affirmative for it because he voted against it, so he really can't bring it back.

Purcell asked if this was a rezoning issue. Devine said yes. Purcell said that can't come back, unfortunately. We can change the policy somehow for the future when that happens even zoning, but right now the Council Policy says you can't for anything involving zoning.

Warren said you might not be able to bring it back, but you could void the action of the Council. The Council could void the action couldn't they?

Purcell said we will come back to this to give the City Attorney time to look it up.

Ewing-Holmstrom said we just voted on item #29, the exhibit, item #26 voted on and passed in April, says the contract for the Blvd. of Lights at the lake is annual.

Shahan said it was for just that event, it's not annual.

Devine said they have to apply for it every time.

Ewing-Holmstrom said since we have opened up the issue of the car wash business, it has opened up a can of worms about the loud cars. We need to come back and look at that ordinance again. If it says July 1 through September 30, we need to look at that as being all year round and what can we do to make sure we shut some of this noise down.

Shanklin asked if we have any answers on our Library and the remarks made by the Friends of the Library and that they paid for the air conditioning people to come down and how true that is. Did we, or did we not, get volunteers from the City Jail to clean those windows. He thinks we should do that.

Shanklin said on SE 1st and Summit, there is water running from a business and is ruining our intersection.

Mitchell said they are looking into it and thinks that can be controlled.

Shanklin said several years back he saw a fire truck coming from the south, north on Ft. Sill Blvd. and made a left hand turn on Bell. A little bit later it comes back and went south. When he inquired about it he was told he didn't see that and it didn't happen. There were 7 or 8 people there who saw it and finally Wells got the dispatch tape and found that they went to 1111 Bell, but were dispatched to 111 Bell. He said that is an honest mistake. He stressed the point about not being believed when he reports situations like these.

Shanklin asked Buckley about the water meter replacement.

Buckley said that is part of the 2005 CIP for the \$6 million.

Shanklin said the article states they did it for \$400,000 for 4,400 accounts, so we should be able to do the same program for \$3.2 million. What are we going to do with the other \$2.5 million?

Purcell said he read the article and they started way ahead of where we are because they already had things in houses which was push-button and all that. They were far ahead than where we are now. That could be part of the difference.

Endicott said we got that number from a couple meter companies we had talked to informally and they said it would be anywhere between \$150 to \$200 per unit to do this.

Shanklin said he doesn't believe it will be and that's a 25% deviation right there from what you just said. We started out at \$2 million, then went to \$4 million, and now it's \$6 million. He said they make no mention in the article that it increased their revenue. If we are going to increase ours by half again, we are looking at some pretty good changes.

Haywood said grandchildren are coming to visit him and it's only the third or fourth time he's seen them and they will be with them for 12 days and he's thankful about it.

Purcell thanked Warren for filling in for him for 2 1/2 weeks and it was a tough job and he received compliments from everyone.

Purcell announced the OML and NLC Conferences are coming up and Traci, his secretary is handling that this year and if anyone wants to go you need to let her know in the next day or so because there are deadlines coming up for registration. The OML is Aug. 18, 19, and 20th and the NLC is in December, but if you don't get in now you will find you won't get in a conveniently located hotel and will have to travel to get to the meetings.

Purcell said he has had a lot of phone calls, letters, pictures, and emails from citizens being flooded and drainage problems because of new developments. He asked the City Manager to bring back an ordinance about drainage. He has to do something, we had a drainage ordinance in place, we voted to do away with it, but we have a lot of complaints in that area, so we need to take another look at that. He has asked the City Manager to bring it back, there's no time frame, but he thinks we've got to take and do something to protect the citizens out there who are being flooded, not only with water but with mud.

Shanklin asked if he was talking about detention ponds.

Purcell said he doesn't know what we're talking about, we are talking about the basic thing we always talked about, post equals pre or pre equals post, that concept. Don't let anymore water run off your property after you develop it to flood your neighbors. He said he didn't know if that was a detention pond or what it is, but we need to do something. There are lots of cities that have them, they are working, and we need to go and find out and he has asked the Manager to do that.

Purcell said the first Town Hall Meeting will be on August 3rd in this Council Chambers at 6:00 p.m. and asked the media to please get that information out to the public. He said he doesn't know what we'll call it, maybe "Meet the Mayor," but everyone is invited. He said he is going to listen to citizens and try to provide some answers or if I don't have the answers that night, will try to get them. There is no requirement for Council to be there. This will be held the first Tuesday of every month from then on. He said he has asked the City Manager to be here and will ask the City Clerk to be there and will play it by ear if he will need those two in the future.

Ewing-Holmstrom asked if this will be televised on Channel 2.

Purcell said he doesn't know, we will see what the media decides to do about that.

Devine said he had a doctor come to him and bring up an issue that one of the reasons we lost Bar-S's expansion is they didn't want to deal with the problems with the City of Lawton on trying to get permits and how they want things done, etc. He feels like we need to get another committee together like we had with the Mayor's Task Force when Mayor Powell was here, that we tried to do some of that, Shanklin, Bass, and himself sat on it and they tried very hard to get some ordinances changed and to make our City more user friendly. A lot of things got railroaded, side-tracked, and was never brought to this Council and the people on that committee got so frustrated because by the time it would go through certain hands, it was changed so dramatically. By the time it got to Council, it wasn't anything they worked on. The entire purpose of that was to try to change and clean up the verbiage and the problems we had within our ordinances to make it more user friendly and try to make it less restrictive. Things turned out to be more restrictive. He said he would like to impress on the Mayor that he thinks very strongly about getting a committee together again and try to get this working because it really had potential. It had a lot of businessmen from all different areas of the City to try to help change some of that stuff and we need bring this back. We could use Bar-S's expansion because that was several hundreds of thousands of dollars that would have been more money into this community. We are one of the most restrictive cities in the State of Oklahoma to get anything done.

Shanklin asked the Mayor if he has had any complaints from anyone lately.

Devine said not lately because the City Manager made a major change here not very long ago and since that problem has went away, things have gotten a lot better and he's got a lot of compliments about it.

Mitchell said there is an Open House scheduled for tomorrow at our Water Treatment Plant. There will be a ribbon cutting and a walk-thru between the hours of 10 a.m. and 2 p.m.. We have made some major improvements out there and invites the community to come out and take a look at it.

Purcell said in response to Devine, he was planning to do that and we will take it up as an issue. He is planning to do that committee, but there will only be approximately 10 members, maybe 11 and are not going to make it 20 or more. He will bring the names to Council for their approval and it will be an officially approved Council Committee to do exactly what you suggest. He asked each Council member to give him a name, before next Tuesday, of one person you want to see on this committee.

Vincent reported on the information he was looking for. He said on reconsideration of items is on page 8 of Council Policy 1-6. Basically it's when the vote of the Council occurred at least 6 months before the item can appear again. Annually when Council members have been sworn into the office and the item was previously voted on by the prior administration and when the vote of an absent Council member can change the outcome of the matter previously voted on. This section shall not apply to any matter dealing with Planning, Zoning, Legislation, nor shall a provision be applicable to the initiation, prosecution, defense, or settlement of litigation brought by or against the City, it's employees, or agencies. This can be amended, however, a zoning item can't come back on the agenda at a later date without going through the notice procedures required by State Statutes.

Warren asked if Council could void that action of Council, not bring the item back, but just void the action.

Vincent said that is bringing it back to take a vote of the Council. To rescind the ordinance you are bringing a zoning issue back before the Council which is going to require the notice requirements of State Statutes.

Givens said he thinks the Policy should be amended that if we find out someone stood before Council on any matter and blatantly told untruths, that item is automatically brought back.

Purcell asked Vincent if he had enough information to work on the ordinance changes.

Vincent said yes, but it would probably be two meetings.

Council adjourned into executive session at 8:15 p.m. and reconvened from executive session at 9:26 p.m. with a motion, second, and roll call with all present, except Ewing-Holmstrom.

EXECUTIVE SESSION ITEMS:

31. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the consolidated law suit, in the Comanche County District Court, Comanche County Rural Water District No. 1, et al vs. City of Lawton and Lawton Water Authority, Case No. CJ-2003-928; and if necessary, take appropriate action in open session.

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

Warren stated the following: "In response to the letter from Plaintiff s Attorney, the City Council rejects the base line charge for the Plaintiffs, as proposed. No refund of any monies paid as none was in excess of charged amount. This Council proposes that the starting point for discussions is the current amount being charged. We will discuss with the Plaintiffs the possible revisions of the criteria used to determine cost. All monies paid to date are and will remain the City s. Water Rate Committee meetings are open to the public, notice as required by the Oklahoma Open Meetings Act will be posted and each of the plaintiffs will be mailed a copy of the notice, if time permits."

MOTION by Warren, SECOND by Shanklin, to continue negotiations in the consolidated law suit, in the Comanche County District Court, Comanche County Rural Water District No. 1, et al vs. City of Lawton and Lawton Water Authority, Case No. CJ-2003-928. AYE: Shanklin, Patton, Haywood, Warren, Bass, Givens, Devine. NAY: None. MOTION CARRIED.

32. Pursuant to Section 307B.3, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the possible purchase of real property, and if necessary, take appropriate action in open session.

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

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