

Meeting of 2004-8-24 REGULAR MEETING

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
AUGUST 24, 2004
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

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

The meeting was called to order at 6:06 p.m. by Mayor Purcell with invocation by Pastor John Butler of Beal Heights Presbyterian Church and followed by the Pledge of Allegiance. Notice of meeting and agenda were posted on the City Hall notice board as required by law.

ROLL CALL

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

ABSENT: Amy Ewing-Holmstrom, Ward Four

PRESENTATION OF EMPLOYEE OF THE MONTH AWARD TO FLOYD WILSON, ATHLETIC MAINTENANCE IN THE PARKS AND RECREATION DEPARTMENT.

Kim Shahan, Parks and Recreation Director introduced the Employee of the Month, Floyd Wilson. He said he has worked for the City for 9 years. Wilson came to the City after a 20 year career in the U.S. Army, serving tours in Korea, Vietnam, and Germany. He said Wilson has been a real asset to the Parks and Recreation Department and is an excellent example of what a public servant should be. He sets a good example for everyone by showing our main duty is to provide service to both kids and adults in Lawton, in the very best we can. He also helps train seasonal employees. Shahan thanked Wilson for all he does for us.

Mayor Purcell congratulated Wilson on the wonderful job he does for the City and is an example of our many employees who work so diligently and so hard for the City. He presented Wilson with a plaque, script money for \$50.00, a Certificate of Days Off from the Employee Advisory Committee, and a Certificate of Honor, read by Purcell and presented to Wilson. Purcell then presented him with a Mayor's Do What's Right coin.

Wilson said thank you to everyone.

RECOGNIZE DIANE ROAT, FEE COLLECTOR, PARKS & RECREATION DEPARTMENT.

Purcell said he wanted to recognize Diane Roat, Fee Collector from the Parks and Recreation Department. He said he has received a very nice letter from a group of about 11 citizens. He read the letter that said they have camped at Lake Ellsworth and Collier's Landing for the last few summers and Roat has been most helpful with the Rules and Regulations. They said she has done her job with a very mannerly and professional attitude. They said they respect her for her friendly and positive personality. She has taken care of their camping problems in a very friendly manner and welcomes her pleasant smile at collection time. They commended her for a job well done.

Purcell then read a letter from him to Roat in reference to this letter. He extended her his sincere thanks and told her to keep up the good work. He then presented her with a Mayor's Do What's Right coin.

Roat thanked her campers because without them, she wouldn't have a job.

Purcell asked Kim McConnell, Reporter from the Lawton Constitution to come forward. He said she covers all the City Hall activities and this year she has also been busy covering all of the State Legislative activities. He said he hoped everyone read what was in Sunday's paper. He said McConnell did an outstanding job of presenting the

views of what all the issues were about. She wrote, on her own, six pages of newspaper articles. She did a wonderful job of explaining it and he wanted to recognize her and present her with a Mayor's Do What's Right coin.

AUDIENCE PARTICIPATION OPENED AT THIS TIME.

Raymond McAlister spoke about the Lawton Ranger rodeo held last week.

AUDIENCE PARTICIPATION CLOSED AT THIS TIME.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF MAY 27, 2004.

MOTION by Warren, SECOND by Haywood, to approve the minutes of the Lawton City Council Regular Meeting of May 27, 2004. AYE: Givens, Devine, Shanklin, Patton, Haywood, Warren, Bass. NAY: None. MOTION CARRIED.

RECEIVE A SIX MONTH REPORT ON THE MUSEUM OF THE GREAT PLAINS FROM JOHN HERNANDEZ.

John Hernandez, Director of the Museum of the Great Plains said the past six months included the museum's first-time attempt in the Festival Market, which was not only a lot of work, but a huge success. He said the experience was well worth the effort. He said the Market Fest brought the local community two full days of Native American Culture, crafts, and entertainment. Many renowned Native American artists, musicians, dancers, and storytellers participated in making this an opportune annual event everyone will look forward to. He said in the past six months they have had notable professors, scholars, and talented individuals from our community present informative lectures and workshops. These are worthwhile events planned continuously throughout the year, in hopes of enriching the lives of those we serve. Hernandez said in the last fiscal year, total attendance for the museum was 30,000. They have had visitors from all 50 states in the Union. Texas, once again, was the leading participant, with a 26% total. He said visitors from the Lawton community totaled 23%, visitors from outside of Lawton came in at 77%, of these, 57% were from outside of Oklahoma. The museum also had 43 International visitors from over 20 countries, in addition, they had over 15,000 school age children attend educational programs at the museum. He said they are currently working on expanding these educational programs. Hernandez expressed his great appreciation to the continual support of the City and Council.

CONSENT AGENDA : Separate consideration was requested for Items #1, 5, 10, 11, 12, 13, 14, 21, and 23.

MOTION by Patton, SECOND by Warren, to approve the Consent Agenda with the exception of items 1, 5, 10, 11, 12, 13, 14, 21, and 23. AYE: Devine, Shanklin, Patton, Haywood, Warren, Bass, Givens. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for denial: Al and Joyce Hall and Vicki and James Biscaino.

Haywood said Hall is the President of Douglas PTA and he spoke with him and told him he could not get involved in another person's precinct, so Haywood told him to contact his Council person.

Al Hall, 318 NE 26th Street said he submitted a claim to the City in reference to his driveway. He said the claim was denied but he feels the water department and street department are at fault. He passed pictures around for Council to look at. He said in the last two years, his yard, has been dug up three times, as well as his neighbors several times. He said the streets are very decayed and look bad. He said water stands 6-7 inches right in front of his driveway. He said every six months to a year they have to come out there and patch this spot because the water stands there. When it rains, the water sets in his driveway and when cars drive by, the water splashes up on his vehicle, almost up on his house. When they dug up his broken water line, they didn't dig up the whole thing, they used a cup and got underneath and pulled the dirt out, which left a large hole. They used shovels and dug under his driveway until they got to the break, then repaired it, but then they put the dirt back down, not knowing the water that sets in his driveway washes the dirt out from under there. He feels the denial of his claim is wrong, he feels the City should fix his driveway and, if possible, fix that street, because it looks bad and makes his neighborhood look bad. He requested Council consider approving his claim.

Vincent said there are a couple problems with Hall's claim. One is the Statute of Limitations and that is the duration of time from when the damage allegedly occurred and when the claim was filed. By Law, he has to file it within one year of when the damage allegedly occurred. The other problem with Hall's claim is he has requested the driveway be repaired. Under the Oklahoma Tort Claim Act, he needs to claim an amount certain and we have not been able to get Hall to tell us how much money he wants. He asked Council to consider the Statute of Limitations, but also to consider if they are favorably thinking about paying this claim, it needs to be tabled so we can work with Hall to find out how much money he's actually talking about, because we can't enter private property under this situation, to repair this driveway. It has to be money damages.

MOTION by Devine, SECOND by Haywood, to postpone the damage claim of Al and Joyce Hall until we can get a dollar figure. AYE: Shanklin, Haywood, Bass, Givens, Devine. NAY: Patton, Warren. MOTION CARRIED.

Purcell said the next item is a claim for denial on Vicki and James Biscaino.

MOTION by Patton, SECOND by Warren, to deny the damage claim of Vicki and James Biscaino. AYE; Shanklin, Patton, Haywood, Warren, Bass, Givens, Devine. NAY: None. MOTION CARRIED.

2. Consider the following damage claims recommended for approval: Gordon D. Woodring and Jeannie Smith; J. Enterprises Inc., DBA ColorTyme; and Ralph and JoAnn Curts. Action: approved.

3. Consider authorizing the Mayor to execute a Utility Relocation Agreement with CenterPoint Energy Arkla to relocate existing facilities in a CenterPoint Energy Arkla private easement along NE Flower Mound Road as required for construction of the Flower Mound Road (Gore Blvd. to Rogers Lane) Project #2000-28. Action: approved.

4. Consider awarding a construction contract to H.G. Jenkins Construction, Inc. for the Highland Cemetery Road Overlay Phase I Project #2004-8. Action: approved.

5. Consider acknowledging receipt of a Draft Permit for the construction of a force main, lift station and appurtenances from the Oklahoma Department of Environmental Quality to serve the School House Slough Restroom, Lift Station, & Force Main Project #2001-17, City of Lawton, Comanche County, Oklahoma.

Shanklin asked who all benefited from this. Ihler said this benefits School House Slough as well as our East Camp Ground and our Day Use Area at Lake Lawtonka. He said he believes the contract we have expires sometime in 2007 for the use of the Lakeland Lagoon on the east side of Hwy. 58, so we need to find a new location to take our waste from these areas. Shanklin said that s not building any restrooms. Ihler said this project includes the construction of a restroom.

MOTION by Shanklin, SECOND by Warren, to approve the receipt of a Draft Permit for the construction of a force main, lift station and appurtenances from the Oklahoma Department of Environmental Quality to serve the School House Slough Restroom, Lift Station, & Force Main Project #2001-17. AYE: Patton, Haywood, Warren, Bass, Givens, Devine, Shanklin. NAY: None. MOTION CARRIED.

6. Consider approving the record plat for Dayspring Addition, Part 1. Action: approved.

7. Consider approving an amendment to the Agreement between the City of Lawton and Great Plains Improvement Foundation, Inc., dated April 22, 2003 and authorize the Mayor and City Clerk to execute the document. Action: approved.

8. Consider entering into agreements with Great Plains Improvement Foundation, Inc., Christian Family Counseling Center, Inc., Hospice of Southwest Oklahoma, Inc., Wichita Mountains Prevention Network, Inc., and Habitat for Humanity, Inc. to carry out CDBG projects authorized in the City of Lawton Consolidated One-Year Action Plan for FFY 2004 (July 1, 2004-June 30, 2005) and authorizing the Mayor and City Clerk to execute the agreements. Action: approved.

9. Consider approving contracts for the Co-Sponsorship Program. Action: approved.

10. Consider ratifying the actions of the Lawton Water Authority approving an Outside Water Sales Contract with Celeste Corrente, and authorize the Chairman and Secretary to execute the Contract.

This item was struck.

11. Consider ratifying the actions of the Lawton Water Authority approving an Amendment to the Outside Water Sales Contract with Patrick and Ronna Corrente, and authorize the Chairman and Secretary to execute the Amendment.

This item was struck.

12. Consider ratifying the actions of the Lawton Water Authority approving an Outside Water Sales Contract with Malcolm and Shirley Ray, and authorize the Chairman and Secretary to execute the Contract.

This item was struck.

13. Consider ratifying the actions of the Lawton Water Authority approving an Outside Water Sales Contract with Malcolm and Shirley Ray, and authorize the Chairman and Secretary to execute the Contract.

This item was struck.

14. Consider ratifying the actions of the Lawton Water Authority approving an Outside Water Sales Contract with Margaret Guthrie, and authorize the Chairman and Secretary to execute the Contract.

This item was struck.

15. Consider ratifying the action of the Lawton Water Authority approving the advertising for bid to lease the City's oil and gas interests for a 320 acre tract and a 40 acre tract of land located in the vicinity of Lake Ellsworth in Comanche County to the highest and best bidder. Action: approved.

16. Consider ratifying the action of the Lawton Water Authority removing Tract E-5, described as part of Section 8, Township 4 North, Range 11 West, located in the vicinity of Lake Ellsworth. Action: approved.

17. Consider continuing authorization for the City Attorney to represent the City of Lawton on the Oklahoma Municipal Utility Providers (OMUP) Steering Committee. Action: approved.

18. Consider accepting an engagement letter for technical accounting and consulting services with the firm of Crawford & Associates, P.C., and provide guidance to staff as appropriate. Action: approved.

19. Consider approving the following contract extensions: Tire Recapping (CL04-005) with Mileage Master's Inc.; Tactical Body Armor (CL03-010) with Special OPS Uniforms Inc. Action: approved.

20. Consider awarding contract for Fire Hydrants (CL05-002) to Oklahoma Contractor's Supply. Action: approved.

21. Consider approving the repair and/or replacement of the master meter box that serves the East 75th Street Water Association.

Warren said he doesn't have a problem with us handling the master box like this, his question is on the funding source. It says 50% for the Water Association and 50% Water Distribution, but he remembered when they did the budget, they had moved meters to Revenue Services. He asked if there was a reason they were paying for the meters out of Public Works rather than out of Financial Services.

Mitchell said this cost share would be for rebuilding the meter box. It's the labor and materials for rebuilding that master meter box.

Devine said the problem is when they build that meter box, they put an L at the end of that meter which causes a turbulence and gives a false reading.

Warren said his question was about the source of the funds. He wanted to know why it's coming out of Public Works and not out of Revenue Services. Devine said he agreed and felt it should have come out of Revenue Services. Warren said he knows the labor is coming out of Public Works, but if we could look at that, he thinks it should come out of Revenue Services.

Mitchell told Warren he could make that as part of his motion.

Bass said you are talking about a brand new meter box.

MOTION by Warren, SECOND by Devine, to approve the repair and/or replacement of the master meter box that serves the East 75th Street Water Association, with the stipulation that we re-look at the funding source on the City's side and look at Revenue Services for the actual materials, not the labor. AYE: Haywood, Warren, Bass, Givens, Devine, Shanklin, Patton. NAY: None. MOTION CARRIED.

22. Consider accepting an Early Literacy Project Grant of \$2,000 from the Oklahoma Department of Libraries and authorize execution of the contract. Action: approved.

23. Consider approving appointments to boards and commissions as shown on the exhibit to this item.

Purcell said he asked this to be pulled for two reasons; this is a normal appointment of two committees; the Sign Committee which Council decided who they wanted on it and the names listed are the people provided by the various entities and who the Chairman was is not listed and he wanted that known and that will be Rex Givens. He said the second thing was to announce those on the Zone One Task Force will be Suzy Glover, Khris, Kenyon, Jacob Debusk, City Manager, Larry Mitchell, Police Chief Harold Thorne, Fire Chief Bart Hadley, Parks and Recreation Director Kim Shahan, Tim Libby, and the Neighborhood Services Supervisor is in there by title or their designee,

once we get one.

MOTION by Patton, SECOND by Bass, to approve the appointments to boards and commissions as shown on the exhibit to this item. AYE: Warren, Bass, Givens, Devine, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

24. Consider approval of payroll for the period of July 19, 2004 through August 1, 2004. Action: approved.

BUSINESS ITEMS:

Purcell asked Council to strike item #32 at the request of the person who asked this to be put on the agenda.

25. Consider accepting a Temporary Construction Permit from the Commissioners of the Land Office for the Southeast Water Treatment Plant located in Section 16, Township 1 North, Range 11 West, I.M., and authorize the Mayor and City Clerk to execute the Permit.

MOTION by Shanklin, SECOND by Warren, to accept a Temporary Construction Permit from the Commissioners of the Land Office for the Southeast Water Treatment Plant located in Section 16, Township 1 North, Range 11 West, I.M., and authorize the Mayor and City Clerk to execute the Permit.

Mitchell said he handed out a copy to Council of the Temporary Construction Permit for their review and in Exhibit A shows Tract One plant site of 98 acres and within 120 days we re confident that this Temporary Construction Permit will be converted to a Permanent Easement. Mitchell thanked Darrell Atkinson for helping negotiate this.

VOTE ON THE MOTION WAS HELD AT THIS TIME.

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

26. Hold a public hearing and adopt resolution declaring the structure at: 2113 SW B 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.

Greg Buckley, Assistant City Manager and Acting Neighborhood Services Supervisor reported on the above properties. He said this is a voluntary D & D, the owners are consenting this to utilize the reduced tipping fees.

PUBLIC HEARING WAS OPENED AND CLOSED WITH NO PARTICIPANTS.

MOTION by Shanklin, SECOND by Warren, adopting **Resolution No. 04- 116** declaring the structure at: 2113 SW B 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, Shanklin, Patton, Haywood, Warren, Bass. NAY: None. MOTION CARRIED.

27. Hold a public hearing and consider an ordinance changing the zoning from I-3 (Light Industrial District) to I-4 (Heavy Industrial District) zoning classification located at 502 SW Douglas Avenue.

Julie Sanders from the Planning Department said the applicant is Monique Hodges and the property owner is Kenneth Davis. She said this area is predominately industrial and this tract of land is surrounded by industrial uses, except for the west side, there are several residential homes. The 2025 Land Use Plan designates this area as industrial. The CPC, by a vote of 8 to 0, recommended approval of this rezoning. Notice of public hearing was mailed to 19 property owners within 300 feet of the requested area on August 3, 2004, and proper notice was published in The Lawton Constitution on August 8, 2004.

Devine asked if there were any other salvage yards in that general area. Sanders said yes there is one. Devine said he understood that some of those salvage yards had never been zoned where it would be the right zoning for those yards. He said he thought there was a potential pending lawsuit on that because some of that was zoned wrong. He asked Vincent if he had heard anything on this. Vincent said no and he was very familiar with the area and most of that is zoned correctly as far as he can tell.

Givens asked if we still have fencing requirements for salvage yards. Sanders said there are fencing requirements when they are adjacent to a single-family residential use. She said if they were adjacent to an interstate, they would have a fencing requirement.

PUBLIC HEARING OPENED AT THIS TIME.

David Carter, whose business is located at 632 SW D Avenue, said he is here on behalf of Monique Hodges, who is

requesting this rezoning. This is under contract for purchase, subject to the action of this Council. He said in the northeast corner is Beville's operation, as well as all along the east side there is salvage yards, and immediately on the northeast corner is a recycling, salvage metal yard. This property, at one time, was a mobile, modular home construction site, so there are several large buildings still existing on this property. He said Hodges intends to utilize it as an automobile salvage yard. He asked Council to grant this rezoning.

PUBLIC HEARING CLOSED AT THIS TIME.

MOTION by Haywood, SECOND by Shanklin, to adopt Ordinance No. 04-34 changing the zoning from I-3 (Light Industrial District) to I-4 (Heavy Industrial District) zoning classification located at 502 SW Douglas Avenue.

Vincent read the ordinance title at this time.

VOTE ON THE MOTION WAS TAKEN AT THIS TIME.

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

(Title Only)

Ordinance No. 04-34

An ordinance changing the zoning Classification from the existing classification of I-3 (Light Industrial District) to I-4 (Heavy Industrial 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.

28. Consider approving a revised Request for Proposal (RFP) for the City's Utility Easement Abatement request to bid.

Buckley said at the July 13, 2004 Council meeting, there was an item on the agenda to reject the bids submitted from the previous solicitation for the Utility Easement Abatement Program. We only had one bidder, AEP and we did not feel that was a valid bid and the potential conflict between AEP and the City and their utilization of the rights-of-way, so they requested they reject that and go out for bids. He said Council requested at that time that the item be brought back to them prior to readvertising. He said staff has reviewed the bid proposals and has brought it back, as requested, for Council's approval, prior to going out for rebid.

Shanklin asked how much money they are talking about under funding source. Buckley said under the current budget, he believes there is \$43,000 identified for this.

Shanklin asked if our liability amount is what's required by the State. Vincent said under the Oklahoma Governmental Tort Claims Act, requires a million.

Shanklin said it states branches to a height of no less than 8 feet above the ground. He said he believes we have that at 14 feet. He said the contract is to be awarded with the understanding that work orders will be issued as work and funds are available. We only have \$43,000 and don't know what we are trying to do, this isn't going to get us anywhere. He said he didn't mind sending it out to see what kind of response they get, but they need to look at the fact that if they're going to have to hire three people full-time, then do it. He said to see what that cost would be compared to the bids.

Bass asked if we had an estimated cost of what cleaning up every alley would be. Mitchell said we do not. The concept behind this program is to get us started to see what kind of cost would incur and to augment it through our Neighborhood Services Program. He said he didn't think we were intending on using this program to go out and pay for alley clean up. The idea is they get a contractor on board and when they notice owners who have a problem with easements, they give them notice. They don't clean that easement up and the City use this money to hire the contractor to go in and clean the alley.

Shanklin said there is money in the franchise fees and doesn't know how we can promote our city with these trashy and filthy alleys. Mitchell said they were thinking of doing this a block at a time, that they would identify certain alleys and easements that were problems, and go in and address those, a block at a time.

Shanklin asked how they define whose alley they're going to do against those who will do their alleys, then there's one or two within a block that won't do it, regardless. Some of us will keep our alleys clean, but some of them aren't. Mitchell said we would handle that the same way we do our nuisances, through weed abatement.

Shanklin asked if we were going to go pro-active. Buckley said that is the intent, to get the program started.

Warren asked Vincent to explain to him the difference between easement and right-of-way and to tell him what an alley is. Vincent said for the purposes of this program, there is absolutely no difference between an easement, an alley, and a right-of-way. The property owner that abuts the easement of an alley, in Lawton, is responsible for

maintenance to the center of that easement and/or alley, under our Code. For other purposes, there is differentiation, but for the purpose of this program, the property owner is responsible to the center.

Warren said over on the west side where they don't have alleys, there's still a large percent of those people that are financially unable to keep their alley clean or too old to do it.

Devine said he thought this originated when we first got the buses, that we got complaints of the trees being so low that it was hitting the top of the buses and also the trash trucks going down the alleys. He thought Council voted that the City, if we wanted the limbs cut, would pay for having those limbs cut. Shanklin said yes, that we would do it. The City's responsibility is 14 feet. Devine asked if this was the same thing we are talking about. Mitchell said no, this is beyond just the tree trimming, this is cleaning up alleys and easements. For the meter readers, for the utility people, for the companies trying to get in there to make repairs to gas lines, and that's the purpose for this program.

Buckley said this developed off of the Council's desire, after hearing the presentation by the utility companies to have assistance in helping them maintain easements and have access to the utility easements. The problems they are facing with the overgrowth and having fences too close to the meters. There was a presentation by Ihler several months ago in regards to doing a more comprehensive alley tree trimming and clean up with utilizing City crews. Setting dollars aside for crews to work on Saturdays to address the tree trimming and the alley clean up.

Purcell said the object of this thing is to go out and try to get another RFP and until they know what it is going to cost them, they're never going to get anywhere.

Devine said he thought they had an agreement with the Pre-release Center. He asked what happened to that.

Shanklin said Ben Lehue refused to do it, they claimed they didn't have the personnel to put them out there. They did have some equipment for him and he did come twice, but that was it. Mitchell said he lasted about three hours.

Warren asked Vincent if we can expend public funds on private property, to clean up private property, without attempting to recoup that money. Vincent said from that standpoint, alleys are a little bit different as far as ownership. The City owns the alley, but the Code says that the abutting property owner is responsible for the maintenance of the alley. Warren asked about the elderly who cannot clean up their alley, can the City of Lawton expend public funds to clean up the alley, without recouping those funds. Vincent said he is using the word alley.

Warren said okay, easement. Vincent said no. Warren said that is where the problem is going to be on this. They may accomplish something in Old Town North where there is alleys, but when you move west, they haven't accomplished anything by doing that. He said They would need two different ordinances to get where they want to go.

Vincent said right now the Code says the abutting property owner is responsible for the right-of-way and alley, not using the word easement. We can change that because right-of-way and alley is, until otherwise something happens, an easement is the property owner with the City and utility companies having a right to use the property, so there is a technical difference as far as ownership is concerned. They could have two different programs, or they could have the same program and send out the abatement notices and deal with it the way they deal with any other nuisance.

Patton said that's the direction he thought the initial intent was and somehow that changed. It was his understanding when they put this forward, they were going to approach this from an abatement type situation. He said he still feels that's the way they should go. He thinks homeowners should be responsible for the property they own, if that is indeed their property. The obligation and responsibility rests with them to maintain it.

Buckley said the development of the program is set up that way, to follow the same abatement process.

Bass said all the abatement of the vegetation, trees, trash, junk, and debris, in utility easements, as defined in City Code, say most of the alleys maybe their fences are too far back. He asked if they are going to stick with this and make them move their fences back where they're suppose to be. He asked if this was going to be a part of it also.

Buckley said the relocation of their fence is not addressed in this program, just the maintenance of the property as it exists.

Bass asked as long as they clean that alley and you can get a bicycle through there, but a truck can't get through there, it's not going to matter. Buckley said as of the current program, correct.

MOTION by Patton, SECOND by Warren, to approve a revised Request for Proposal (RFP) for the City's Utility Easement Abatement request to bid. AYE: Shanklin, Patton, Haywood, Warren, Bass, Givens, Devine. NAY: None. MOTION CARRIED.

29. Consider approving the City of Lawton Employee Group Health and Dental Plan Document.

Tim Golden, Human Resources Director said this item deals with revising the Employee Health Plan document. He said it needed to be updated for two reasons; 1) our new Third Party Administrator, Blue Cross Blue Shield, did a review of the Health Plan document with him and the Health Plan Committee and they noted we were not in compliance with some State Laws. We made the changes to the Health Plan to make sure we are in compliance with those State Laws. Second we wanted to update the Health Plan to reinstate or restore the out of network benefit for the General Employee. This way all three of our occupational groups will have the same insurance benefits.

MOTION by Warren, SECOND by Devine, to approve the City of Lawton Employee Group Health and Dental Plan Document. AYE: Shanklin, Patton, Haywood, Warren, Bass, Givens, Devine. NAY: None. MOTION CARRIED.

30. Discuss the expansion of the Lawton Municipal Landfill and issues related thereto and consider approving a Joint Resolution in conjunction with the Comanche County Commissioners to authorize the closing of Tinney Road by the County Commissioners and the construction of a road to replace the closed Tinney Road by the City of Lawton.

Purcell pointed out the Resolution in the agenda book, on page 132-133, has two minor changes approved and signed by the County Commissioners. On page 132 there is a clean up of Section One which describes the area of the road to be closed and all the legal ramifications of that. The other change is on page 133 under Section One, it should read as follows: in consideration of the Commissioners of Comanche County closing that portion of Tinney Road as described above, the City of Lawton hereby agrees to and shall provide for the use of citizens of the City and the County, a new road in the area north of .. and it continues on as you read it there, so a couple words were taken out, everything else remains the same. The wording in that manner is what was approved by the County Commissioners.

MOTION by Warren, SECOND by Shanklin, to approve **Resolution No. 04- 117** approving a Joint Resolution in conjunction with the Comanche County Commissioners to authorize the closing of Tinney Road by the County Commissioners and the construction of a road to replace the closed Tinney Road by the City of Lawton. AYE: Patton, Haywood, Warren, Bass, Givens, Devine, Shanklin. NAY: None. MOTION CARRIED.

31. Consider approving Ordinance No. 04-_____ repealing and replacing Sections 7-10-1001 through 7-10-1-1010, Chapter 7, and amending Section 19A-2-4-242A.4.f, Chapter 19A, Lawton City Code, 1995 changing the terminology for fill sites and establishing new regulations for the licensing of fill sites; providing for severability and codification and declaring an emergency and consider approving Resolution No. 04-_____ amending Appendix A, Schedule of Fees and Charges, increasing the fee for a fill site permit.

Shanklin asked who we were after with this. Buckley said they have had several complaints and issues over the last several months with regards to dump site permits and the condition and maintenance of those. He said they are wanting to re-allocate or provide more stringent requirements with regards to fill sites and not recognize them as dumpsites because there are certain restrictions with regards to fill material. The purpose is to create a fill site where you can take low lying area and bring it up to level grade, to be able to utilize that property which otherwise may not have been able to utilize. He said no rock or fill material can be placed on the easements or right-of-ways. It s really to strengthen the ability to regulate those fill sites.

Shanklin asked for an example of a complaint. Mitchell said one on east Gore and one on 67th Street.

Shanklin said if he had some land on the fringe and wants to raise it up and get it where it has to be, before he can do that, he will have to have a permit.

Purcell said the object of this whole thing is people, instead of taking it to the dump, are dumping huge chunks of concrete and calling that fill, then leaving it there. They are springing up all over the City and people are getting a little upset over it, so they need someway to control it.

Buckley said the intent is to have better oversight and regulation with regards to the intent of the purpose of the fill site and is to not just create a mountain, and to dispose of rock, asphalt, and concrete, but to actually utilize it as fill material to level off to provide for an even grade.

Shanklin asked if we have an inspector for these now. Buckley said currently License and Permits is responsible for this.

MOTION by Shanklin, SECOND by Bass, to approve Ordinance No. 04- 35 repealing and replacing Sections 7-10-1001 through 7-10-1-1010, Chapter 7, and amending Section 19A-2-4-242A.4.f, Chapter 19A, Lawton City Code, 1995 changing the terminology for fill sites and establishing new regulations for the licensing of fill sites; providing for severability and codification and declaring an emergency and consider approving Resolution No. 04- 118 amending Appendix A, Schedule of Fees and Charges, increasing the fee for a fill site permit.

Vincent read ordinance title at this time.

VOTE ON MOTION TAKEN AT THIS TIME.

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

(Title Only)

Ordinance No. 04-35

An ordinance pertaining to business repealing Sections 7-10-1-1001 through 7-10-1-1010, Article 7-10-1 Dumping Sites, Chapter 7, Lawton City Code, 1995; creating Sections 7-10-1-1011 through 7-10-1-1021, Article 7-10-1 Fill Sites, Chapter 7, Lawton City Code, 1995, establishing regulations for Fill Sites; amending Section 19A-2-4-242A.4.f, Chapter 19A, Lawton City Code, 1995, changing the terminology to Fill Sites; providing for severability and codification, and declaring an emergency.

32. Consider a request for a revocable permit to allow vehicles to use the alley in Block 2, College Addition for maneuvering and stacking space for a drive through window to be installed at 2718-2720 W. Gore Boulevard.

THIS ITEM WAS STRUCK.

33. Consider approval of the Agreement for Professional Services with Cameron University, and authorize the Mayor and City Clerk to execute the Agreement.

Purcell said this is part of the BRAC Committee and they have received some money for Phase III from the State and are in vital need of the Housing Study. He said after the BRAC Committee met, they voted unanimously to recommend to Council to award the contract directly to Cameron University because they could do that as a sole source with a Housing Study that has an urgency and needs to be done before the end of the year in order to get it to the BRAC Commission in Oklahoma City and then get it to Washington. The purpose of this contract is to speed up the time. It is for \$37,500 that will come from the State. There is, however, a small modification in the Professional Services agreement on page 161 on the bottom of the page. The date states November 15, 2004 and it needs changed to December 31, 2004, but everything else remains the same.

MOTION by Bass, SECOND by Haywood, to approve the Agreement for Professional Services with Cameron University, and authorize the Mayor and City Clerk to execute the Agreement. AYE: Warren, Bass, Givens, Devine, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

REPORTS

Col. Herring said the Army selected Fort Sill to serve as a mobilization station for two aviation battalions, there will be a total of 46 helicopters and those two battalions will arrive in early to mid September and will be training at Fort Sill for deployment to Iraq. He said it is a very important mission for Fort Sill and the Army. It is similar to what Fort Sill was doing in the 70s and 80s when they had plenty of aviation units stationed at the base. He said they will continue to work to inform the public and let the citizens know what is going on out there. There will be some noise associated with that and increased activity on their airfield and on post, but they are asking for everyone's cooperation and understanding while they are doing this mission.

Devine said he would like to make Council aware that when they passed to allow the Elk's Foundation the two permits to be given away for fun raisers, those two were auctioned off last Saturday and one of them brought in a little over \$1,000 and the other one brought in \$900 plus, so it was a little over \$2,000 that came in. He said he feels like they really did something worthwhile because those people have spent a lot of money and time to improve our Elk herds. They wanted to express their true appreciation to Council for allowing this to happen.

Haywood said on September 11th they are having a birthday party for Audrey Freeman, who turned 100 years old.

Warren thanked everybody who worked on the CIP and most importantly, everybody who went out and voted today.

Purcell reiterated what Col Herring talked about with the helicopters coming in for deployment, that is super news that is bringing to the forefront that Fort Sill is capable of using those helicopters in supporting aviation units. He told Council if they have any calls about noisy helicopters, to tell them it is the sound of freedom. It is important that they have those helicopters here now and hopefully in the future.

Purcell reported on the voting; we have so far 8 out of 28 precincts in and the votes on Question #1, which is the 1 Sales Tax, 729 yeses, 370 nos; item #2 which is the Sewer Rehab for \$10.5 million; 714 yes, 381 nos; on item #3 which is CETAS; 589 yeses, 475 nos; item #4 which is the rehab of the old Lawton High School; 574 yeses, 488 nos. He said this is only 8 out of 28 precincts, but right now, they are all passing. He thanked the public for supporting this and all the people who worked so hard on getting the word out and doing a great job of showing what this money would be going towards.

Mitchell reminded Council they are taking names for the National League of Cities and so far they only have four names. He said anyone else interested in going to Indianapolis the first week of December, to please let him know.

Vincent thanked Council for allowing him to stay on the OMUP Committee, the Oklahoma Municipal Utility Providers. He said the next annual Water Conference will be November 12th in Oklahoma City and will be a daylong conference, including ODEQ and OWRVP.

Mitchell said water is going to be a huge issue this next year.

MOTION by Devine, SECOND by Warren, to convene in executive session. AYE: Bass, Givens, Devine, Shanklin, Patton, Haywood, Warren. NAY: None. MOTION CARRIED.

The Mayor and Council convened in executive session at approximately 7:43 p.m. and reconvened in regular, open session at approximately 8:01 p.m. with roll call reflecting all members present.

EXECUTIVE SESSION ITEMS:

1. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending Oklahoma Water Resources Board application of Edward A. Hilliary, Jr., #2003-599, and if necessary, take appropriate action in open session.

Vincent read the title of Item 1 as shown above. He said Council convened in executive session and after discussion he proposed certain actions be taken.

2. MOTION by Shanklin, SECOND by Warren, to instruct staff to write a letter of protest to the Oklahoma Water Resources Board in the pending Oklahoma Water Resources Board application of Edward A. Hilliary, Jr., #2003-599, and take other actions if necessary. AYE: Devine, Shanklin, Patton, Haywood, Warren, Bass, Givens. NAY: None. MOTION CARRIED.

There being no further business to consider, the meeting adjourned at 8:03 p.m. upon motion, second and roll call vote.