

Meeting of 2004-9-14 REGULAR MEETING

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
SEPTEMBER 14, 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 Gary Eugene Bender of Bethlehem Baptist 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:

 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: Randy Bass, Ward One, Amy Ewing-Holmstrom, Ward Four

Purcell said last Saturday we commemorated the third anniversary of a tragic event. He said three years ago, on September 11th they saw over 3,000 of our fellow Americans murdered, and on that day we saw many heroes. The first responders at the Twin Towers, those police officers and fire fighters, the first responders at the Pentagon, those who helped pull people out and of course, those heroes on Flight 93 who crashed in that field in Pennsylvania. Since that time they have had many more sacrifices in both Operation Enduring Freedom and Operation Iraqi Freedom, they've lost more than 1,000 soldiers, sailors, airmen, marines, and coasties. He said all of those heroes, and without them they would not be here tonight. He asked everyone to bow their heads in a moment of silence, especially to honor one of our own, Lance Corporal Lamont Wilson, who was killed on September 6th in Iraq. He asked everyone to join him by bowing their heads in a moment of silence.

Purcell said on behalf of the citizens of Lawton and City Council, he wants to express our sincere condolences to Corp. Wilson's family.

PRESENTATION OF CITIZEN OF THE MONTH TO LEONA EVANS.

Edwina Reddick-Scott from the Mayor's Commission on the Status of Women introduced the Citizen of the Month, Leona Evans. She said Evans has served on the Lawton/Ft. Sill United Way, the National Election Reporter, the Lawton Chapter of the National Society of the Daughters of the American Revolution, where she served as the Local National Defense Chairperson. She is the Oklahoma Contact Person on Equal Rights activities for Representative Carolyn Maloney. She is a past member of the Mayor's Commission on the Status of Women, a past member of the local and state PTA. She has served on the Marie Detty Youth Services Board, and is a very active member of the Business and Professional Women, local, state, and national. She is married and has two daughters, four granddaughters, and two great grandsons. Scott said Evans even finds time to serve as Chairperson for the Lawton First United Methodist Church Council, who also functions as Administrative Board of the church.

Purcell said Evans has done many more things than was just read and is certainly deserving of this honor. He said it is people like her in the community who makes this community so great. He read and presented her with Citations of Congratulations from the Oklahoma State House of Representatives and the Oklahoma State Senate. Purcell read and presented Evans with an Official Proclamation from the Office of the Mayor and then presented her with a Mayor's Do What's Right coin.

Evans said it is a thrill for her to receive this honor, but never expected to receive it because of her involvement and contributions she has given to all the organizations was actually what she has enjoyed doing. She said she

looks at what she can do to help people have a better life and also provide leadership and training for young women and men. She said she has enjoyed this work and seems to be a natural thing for her to do. She credited her mother for being a role-model for her because she was always active in the community, was always the first one there to take the lead for whatever activities they were having. She thanked everyone for this honor, she appreciates it, and will continue to do what she has been doing and cherish these moments given to her tonight.

Purcell asked for Deborah Dollarhite to come forward for a presentation.

Dollarhite introduced Hank Elling with the Oklahoma Water Resources Board who will give a presentation to the Mayor. The City of Lawton has been involved in the National Flood Insurance Program since 1978 and as part of that, we are in the Community Rating System, since 1990. This past year we went through a re-verification of our program and the have a new class rating. She said we have gone to a Class 7.

Elling commended the City of Lawton on its participation in the National Flood Insurance Program and in the Community Rating System. He said the Community Rating System enables cities who desire to go above and beyond the minimum standards of the National Flood Insurance Program. It enables their citizens to get discounts on their annual Flood Insurance premiums. When Lawton entered the Community Rating System in 1995, it obtained a Class 8 rating, which enabled citizens buying Flood Insurance to get a 10% discount on their premiums and that enabled them to get a discount of about \$45 per year, per policy. Since Lawton has obtained the Class 7 rating, it will be a total of 15% discount, which will be about another \$22 per policy, per year. Elling said Lawton has obtained this because of its community outreach, the Meadowbrook Project, acquiring and removing flood prone homes, the construction of a detention structure at 67th and Rogers Lane, and also with the stream gauges. He said the Oklahoma Water Resources Board is a State Agency, they assist the Federal Emergency Management Agency in overseeing the Flood Insurance Program here in the State of Oklahoma. Elling said there is only one community in the State of Oklahoma who has a lower rating than the City of Lawton. Right now Tulsa has a lower rating, but there are no other cities in the state with a lower rating than Lawton. Nationwide there are only about 78 other communities with a lower rating. He said he hopes the citizens appreciate what has been done for them in lowering their Flood Insurance premiums through participation in the Community Rating System. He then read and presented the Mayor with an award plaque.

Purcell thanked the Planning staff who worked hard on this and all the citizens who participated.

AUDIENCE PARTICIPATION:

Clarisse Phillips at 3902 Denver said Bass had put her in contact with Shahan and Catlett and thanks to them have cleaned up Harold Park and it looks very nice. They have moved brush away and have cut trees. She said you can see from one end of that park to the other now, they are mowing it regularly and the neighborhood appreciates it so much. She also thanked Deborah Jones for returning a call when she called her about the on-going drainage problem on 38th and she did something about it.

Phillips said what she really came for was about the different speeds they have for school zones here in Lawton. She said on school days, some of the school markings say from 8-4, 20 mph, some say 20 mph from 7:30 to 4, some say when flashing, some have three separate times when you are to slow down to a certain speed, and one of them says 20 mph when flashing. She said it just seems like it could be a little more consistent. She said she thinks some of those are probably due to the age of the children in the schools, but when you are going through a school zone and all of a sudden you realize this one is 20, this one s when flashing, and this one is three different times during the day, she feels it could be a little bit more reasonable for the people who drive this.

Corey Cooper said he lives in Woodlawn Hills Community and in the back of the community, McSha Properties are building town homes. He read some concerns from neighbors, as well as his. He said Barbara and Brad at 6906 NW Brucewood, whose fence was broken, would like to know if their fence is going to be replaced. This is a privacy fence and there is an entire building that can look into their backyard. The weeds behind the broken fence are 8 feet high and are growing and they want to know who is going to mow it. There is a cable draped across their back fence and they have called three times asking for someone to remove it. The Foreman, Monty, told them they were replacing an entire fencerow for everyone and they would like to know if this is really going to happen. Their home had extensive water damage due to improper grading. The problem was fixed at the owner s expense and two other neighbors are having drainage problems now. They want to know what is their protection. There are no other three-story apartment buildings in Lawton. They want to know why are these three story buildings were being built. They asked why weren t residents told about these apartments prior to them being built. They want to know if it is low-income housing or government funded. They want to know who these were built for. The next neighbor is Randy H. Farmer at 10 NW 69th Street writes (Cooper is still reading complaints) about wastewater runoff on their lawn, inadequate drainage flooding, trash and construction debris washing down the alley, City complaint procedures. Another neighbor was told when he called in to complain and was told the person couldn t help because they were recently hired new to the position. He had to call Councilman Patton on several occasions and never received a reply. He said it took a year for anything to be done with the alley due to lack of concern, leaving property damage and severe erosion. Cooper said McSha Properties is not wanting to take responsibility for damages. He said the last

complaint comes from an elderly neighbor who has been in the community for quite some time. Her fence was bent and the lock was broken, she had three dogs in the backyard. She also has the same concerns of tall grass and basically the same as the other two he read. He said the building management has installed a cement drain and his concern is that it is right behind his yard and on one side of another neighbor's yard. When it rains heavy, that is a haven and den for mosquitoes and they are wondering if that will be covered. He doesn't want a child to start playing in there and an accident happen. He said he was hear to voice these concerns and see what can be done about them.

Mike Cornish of Cornish Properties said he came before Council a few months ago about a sewer line problem. He said he asked Council then and again tonight, who owns it and do we have an answer yet?

Vincent said the ownership of that was never dedicated to the City when the plat was dedicated, nor was the easement upon which it was built. He said there is no easement existing, however, the Public Works Department, his office, and the City Manager's office is looking into a replacement project and trying to develop a funding source.

Mitchell said he showed those plans to Cornish. Cornish asked what schedule and for what year was that on.

Mitchell said he had told him about a month ago that the plan would be put before the Council, once we knew the results of our 2005 CIP Program, because we had no other funding source.

Cornish asked if we were just going to wait another year or two. Mitchell said yes, we are going to wait. Cornish said to come up with a plan to give us sewer service. Mitchell told him he has sewer service now. Cornish said yes he does have sewer service, but he also had to fix it. Mitchell said it's a private line. Cornish asked if it was a private line or a City line.

Shanklin said it was determined that is a private line 15-18 years ago and Cornish is well aware of it. Cornish said even though you collect sewer service off everybody that's on that line. He said Seven-Up, RSC, everybody pays a fee to use that line.

Cornish said he is under the impression this is a City sewer main. He said everybody pays to use it and he wants to know what's going to be done about it. He said if you want to tell him it's his, maybe he can collect the fees for everybody. He is trying to get something answered and everybody is trying to pass the buck. Mitchell said he gave him an answer. Cornish said you gave me an answer it's going to be 2005. Mitchell said it would probably be considered in 2005. Cornish said you do not own that sewer line, and asked Mitchell if that is what he is telling him. Mitchell said that's what he's telling him. Cornish asked who owns it. Shanklin told him he does, he never dedicated it.

AUDIENCE PARTICIPATION CLOSED AT THIS TIME.

CONSENT AGENDA : No items pulled for separate consideration.

MOTION by Shanklin, SECOND by Warren, to approve the Consent Agenda. AYE: Warren, Givens, Devine, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for denial: Clyde and Maria Sharp, Lynette Harrington, Carl and Katherine Schwander, Karen and James McCoy, and Stephanie Morton. Action: approved.
2. Consider the following damage claim recommended for approval: Laverne Aumann. Action: approved.
3. Consider granting a Right-of-Way Easement to Reliant Energy ARKLA located in part of the Southeast Quarter of Section 19, Township 2 North, Range 12 West and authorize the Mayor and City Clerk to execute the easement. Action: approved.
4. Consider agreeing to a Consent of Encroachment to Easement 017 and enter into an Agreement, relating to the encroachment which is located in the Southeast Quarter of the Southeast Quarter of Section 19, Township 2 North, Range 12 West, with Reliant Energy ARKLA and authorize the Mayor and City Clerk to execute each document. Action: approved.
5. Consider approving and authorizing the Mayor to issue a proclamation which declares that a lawful majority of the registered, qualified electors voting at the August 24, 2004 election cast their ballots in favor of each of said Propositions 3 and 4 and cause the text of the proclamation to be published. Action: approved.
6. Consider acknowledging receipt of a permit from the Oklahoma State Department of Environmental Quality for the construction of 2,245 linear feet of eight (8) inch potable water line and 400 linear feet of eight (8) inch sanitary sewer line and all appurtenances to serve Pinchback Development, City of Lawton, Comanche County, Oklahoma. Action: approved.

7. Consider accepting water and sewer improvements for dedication, an easement and maintenance bond to serve Little Angels Daycare located at 3217 East Gore Boulevard. Action: approved.
8. Consider approving plans and specifications for the Modification of the Existing Landfill Leachate System Project #2004-11 and authorizing staff to advertise for bids. Action: approved.
9. Consider entering into an agreement with Northside Chamber of Commerce, Inc. to carry out CDBG Minority Small Business Development Center Project 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 agreement. Action: approved.
10. Consider approving revisions to Council Policy 2-3, Processing Damage Claims Submitted Against the City of Lawton. Action: approved.
11. Consider approving the following contract extensions: Bakery Products for City Jail (CL04-011) with Earthgrains Baking Company; Sprinkler Parts (CL03-014) with Davis Pipe and Supply, Inc. Action: approved.
12. Consider awarding contract for Repair Clamps, Bell Joint Clamps and Steel Couplings (CL05-004). Action: approved.
13. Consider awarding contract for Property Insurance (RFPCL05-001). Action: approved.
14. Consider awarding contract for RTK GPS System (CL05-009). Action: approved.
15. Consider awarding contract for Lease of Office Facilities for Housing and Community Development (RFPCL05-006). Action: approved.
16. Consider awarding contract for Front Deck Mowers (CL05-008). Action: approved.
17. Consider approval of appointments to boards, commissions and trusts. Action: approved.
18. Consider approval of payroll for the period of August 2, 2004 through August 15, 2004. Action: approved.

OLD BUSINESS:

19. Consider the following damage claim recommended for denial: Al and Joyce Hall.

Vincent said Council postponed this item at the August 24th meeting for further investigation, specifically requesting a report from the concrete folks who work for the City. He said on page 79 of the agenda, the Public Works Director and the Street Superintendent visited the location to determine that the condition known as scaling, caused by overworking the concrete when the concrete was poured years ago, was not caused by any City activity in repairing the water main or putting equipment on the driveway. He said they continue with their recommendation to deny.

Haywood asked if the water can freeze under the concrete. Vincent said he doesn't know if it can or not but it causes cracking and buckling, it doesn't cause this condition. This is caused by too much cement and sand being on top of the rock and the rock not being universally distributed through the mix when they worked the concrete the first time.

MOTION by Warren, SECOND by Patton, to deny the damage claim of Al and Joyce Hall. AYE: Givens, Devine, Shanklin, Patton, Warren. NAY: Haywood. MOTION CARRIED.

BUSINESS ITEMS:

20. Hold a public hearing and consider Ordinance No. 04- ___ closing the west ten (10) feet of the platted utility easements on Lots 1 through 7, Block 16, Tomlinson Addition, Part Two, located at 114 to 126 NW 31st Street.

Deborah Jones said the Comanche County Memorial Hospital Authority has submitted a Closure Application to close the west ten feet of the platted utility easement on Lots 1 through 7, Block 16, Tomlinson Addition, Part Two. She said this is in anticipation of constructing a new medical building. The Hospital Authority has committed to relocating a sewer in the easement that is to be closed and after Council accepts dedication on the new relocated sewer, the Authority will move to vacate the easement in the west ten feet. Notice has been served to all utility companies and property owners within 300 feet. There has been no response either in favor or opposition to this request. She has received responses from the utility companies consenting to the relocation provided that any cost related would be borne by the Hospital Authority.

Shanklin asked if they ever stopped the water flow across 31st. Jones said she has no idea of what the answer to that is.

Givens said until the hospital started paving all that and building all those buildings, they didn't have the drainage problems they have in that area now and it's all mostly coming from that hospital. He asked if this is going to exacerbate that problem some more, or are we going to do something to help relieve that. That's one of the worse parts of town for drainage and it's all from that hospital.

Shanklin said they have guaranteed us twice that they would stop that, but we haven't forced them to do it yet. In the wintertime that will be slick all the way to Squaw Creek.

Warren said a drainage ordinance would be the proper way to handle that. They probably need to look at that. Purcell said that is being looked at as they speak. The previous Council revoked the drainage ordinance and that's why they have that problem as well as many other drainage problems throughout the city. He has asked the City Manager to take another look at that when they're ready to bring it back to Council and talk about a drainage ordinance again because he gets many complaints about drainage.

Givens said they are the primary cause of that drainage problem at 31st and Arlington and have been, it didn't use to be that way.

Devine said that drainage problem has been there a long time and has just arose here in the last few months or the last year or two. He said he has been on this Council for six years and we have had that problem before and the main reason we have the drainage problem across 31st Street is because the pumps go out at the hospital and it will run across and when they get the pumps going back again, that problem stops. The street flooding back to the north, that is our problem because we've used the city streets for our drainage systems. He said in the past the hospital literally stands in water every time it rains and the drainage system will not take care of it and he feels that's the City's problem, not the hospital.

Haywood said when he worked at Garfield there was mold under there, that water is running under Garfield as well. That water just stands under Garfield and they have to pump that water out every so often, at least once or twice a month.

PUBLIC HEARING OPENED AT THIS TIME.

John Mackey, 312 Ridgeview Way said he is here representing the hospital. He said he has lived there a long time and there are a lot of other things that cause the drainage problem besides Memorial Hospital. He reminded Council that's not the issue before them tonight, this is a sanitary sewer they're talking about. It's a sewer easement that ran behind some houses that have not been there for a long time. The building that is planned to be placed at the corner and we have talked about this and it has been made clear that no Building Permits are to be issued in the event that it's going to add to the drainage problem. The issue tonight has to do with sanitary sewer.

The hospital purchased the house at #33 NW 31st Street, it's been demolished for the purpose of allowing the sewer line. The idea is to allow the building for the cardiologist to be built in an area that now has a sewer. The purpose of them being here tonight is to ask the Council to consider the ordinance to close that sanitary sewer. He said from living in this area for a long time, the water comes across those areas before it gets to the hospital, people dump their swimming pools from 36th Street into the street, there are all kinds of things that go on, but we need to continue to address both, from the hospital's point of view and for the public's.

PUBLIC HEARING CLOSED AT THIS TIME.

MOTION by Devine, SECOND by Patton, to approve Ordinance No. 04-36 closing the west ten (10) feet of the platted utility easements on Lots 1 through 7, Block 16, Tomlinson Addition, Part Two, located at 114 to 126 NW 31st Street.

Vincent read the ordinance title at this time.

VOTE ON MOTION WAS HELD AT THIS TIME.

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

(Title read aloud) **Ordinance No. 04-36**

An ordinance closing Platted Utility Easements located on the west ten (10) feet of Lots 1 through 7, inclusive, Block 16, Tomlinson Addition, Part Two, addressed as 114 to 126 NW 31st Street, more particularly described in Section One hereof.

21. Consider a request for a median opening and left turn bay for Rental Services Corporation, 2420 SW Lee Blvd. and take appropriate action.

Larry Walcott, Traffic Engineer said he received this request from Don Zacharias on behalf of Rental Services

Corporation at 2420 SW Lee Blvd. He said their request is for a median opening and turn bay at one of their driveways. This didn't meet the guidelines established in Council Policy 8-2.

Devine asked if it wouldn't be safer to have a turn bay there than having that traffic and those large trucks making u-turns at 27th Street, where we have major accidents constantly, because of the u-turns. He urged Council to waive this policy and allow the turn bay.

Haywood said every time we put a business in, are we going to put a turning bay there? We can't do that, it's a Council Policy.

Devine said we have done it for all the others.

Shanklin said it is a Council Policy and he has never voted for it, but a Traffic Engineer lost his job in 1985 because he wouldn't sign off on one in the 1100 Block of Lee. Since that time, he doesn't know how many dozens we have allowed for this to happen. They didn't manufacture that policy.

Continuing debates between several Council members were held on this subject.

MOTION by Shanklin, SECOND by Devine, to waive Council Policy 8-2 and approve the request for a median opening and left turn bay for Rental Services Corporation, 2420 SW Lee Blvd. and take appropriate action. AYE: Devine, Shanklin, Patton, and the Mayor broke the tie. NAY: Haywood, Warren, Givens. MOTION CARRIED.

22. Consider adopting an Affirmative Employment Plan for Fiscal Year 2004-2005.

Tim Golden, Human Resources Director said this is the first time in 23 years that they have updated our Affirmative Employment Plan, it's the first time they have established any tangible hiring goals, based upon a workforce analysis and based upon that analysis, they are going to alter or modify the way we recruit minority applicants in the future. For example, they are going to team with the Northside Business Chamber to try and get more minority applicants. He said he did take this plan to the Human Rights and Relations Commission and they unanimously endorsed it. Staff and the Commission recommend that Council adopt the plan.

Shanklin asked if they were the only ones who have done this so far. Golden said he doesn't know about the other municipalities, but he does know it's required by State Statute.

Shanklin asked what this cost us. Golden said they did this with RPO Management and \$2,500.

MOTION by Givens, SECOND by Haywood, to adopt an Affirmative Employment Plan for Fiscal Year 2004-2005. AYE: Shanklin, Patton, Haywood, Warren, Givens, Devine. NAY: None. MOTION CARRIED.

23. Consider approving a Resolution establishing a committee composed of nine members to be appointed by the Mayor and confirmed by the Council to be known as the Code Review Committee.

Purcell said this is an overall view of looking at our codes. He said there have been repeated comments about the codes needing to be looked at. He said this is an attempt to look at all our codes. They will bring a recommendation to the appropriate body, some will go to the Planning Commission for their consideration, some will come directly to Council, on what we need to do on our codes.

Haywood asked if there were any minorities on this committee. Purcell said he didn't know, he didn't look at it that way. The members of this committee have to have some expertise in each area, such as electrical and plumbing.

MOTION by Shanklin, SECOND by Patton, to approve **Resolution No. 04-121** establishing a committee composed of nine members to be appointed by the Mayor and confirmed by the Council to be known as the Code Review Committee. AYE: Shanklin, Patton, Warren, Givens, Devine. NAY: Haywood. MOTION CARRIED.

24. Consider approving and authorizing a utility account adjustment to Sunnyside Acres Water Association located at 4502 SE Bishop Road for undetectable leaks on their private water line.

Endicott said the Sunnyside Acres Water Association has requested an adjustment to their account, based on leaks they have had for several years. Barbara Curran, Revenue Services Supervisor, has been working with Bill Whisenant for a couple years. He said there are a couple of options for adjusting this account. Option 1 is based on approximately one year's worth of adjustments and Option 2 is based on two years, going back to when they initially contacted Revenue Services about these leaks. The reason there are two options is because the Code does not specify how far to go back for adjustments.

Devine asked if the \$3,121.00 in Option One was per year, from July 03 to April 04. Endicott said that was correct. Devine asked what the gross amount would be if we go with Option One. Endicott said \$3,121.00. Devine asked if

that was per month or per year. Endicott said no, that's the total. Devine said it doesn't say that. The other problem he has with this is it's been leaking for two years and they should make an adjustment back that far?

Endicott said he is not suggesting they should. They have been working with them for a couple years, on this particular leak. Devine said they have been working on this for the last couple years but just got it fixed in the last 30 days. Endicott said they fixed it in the last 30 days. He said they wouldn't bring an adjustment to Council until they had a plumber's statement that these leaks have been fixed. He said they don't know that they have all the leaks fixed because the master meter is still reading high.

Shanklin asked how much water are they using per meter. He asked if it was averaging 10,000 or 20,000. Curran said they have 35 or 36 submeters on their association's line, so she would have to go back and look at each one to get an average. Shanklin told her she didn't have to do that.

Warren said they have done this in the past and would not be able to support any of these. He said he would like, if Council is interested, for the Manager to bring back a revision of this code. If they want this to help the individual citizen out there, that is what they need to do. Those water lines, regardless of the reason for the leak, once it went past our master, those people are in the business of selling and providing water for their customers. If they have a leak that leaks 10,000 gallons a second, he said he is sorry, but that's their problem. He said he is tired of the citizens of Lawton paying for rental properties that have problems when the owners don't take care of it until they have to, and the commercial endeavors who don't want to take care of their water lines.

Devine said they went through that on the 75th Street Water Association. They found their problem without having to adjust the water bill for the simple reason they had enough initiative to take every individual meter and read them to determine how many gallons of water each house was using and compared that to the master meter. They walked the whole line and determined there was not a leak, that the leak was in the defective metering system they have. That is why they made a major adjustment on it. He said he doesn't understand how it would be such a hard thing for them to take the amount of meters they have and if they used 500,000 gallons of water and their master meter shows they used 750,000 gallons, there's a problem somewhere. Warren said they knew there was a problem, they knew they had a leak. Devine said they have been sitting for two years and now they want to come back and have us give them credit.

Vincent said on the outside waters sales contract, faulty or defective meters are covered and how you pro rate and adjust it. It has nothing to do with the code provision Warren is talking about.

Warren said they knew it was leaking and chose not to repair it because they couldn't find anybody who could fix it. Basically, they said the citizens of Lawton will pay for this later and he said he was not going to accept that. He said they have blatantly said they have a leak too hard to fix so they're going to wait two years to do it and when they finally fix it, they're going to get our money back. We didn't overcharge them, we provided them with exactly what they paid for, what they did with it after that is their concern, that's not our concern.

MOTION by Warren, SECOND by Devine, to deny a utility account adjustment to Sunnyside Acres Water Association located at 4502 SE Bishop Road for undetectable leaks on their private water line and direct the City Manager to bring back revisions to the Code. AYE: Warren, Givens, Devine, Mayor broke the tie vote. NAY: Patton, Haywood, Shanklin. MOTION CARRIED.

25. Discussion of an ordinance pertaining to general provisions, creating Section 1-2-207, Article 1-2, Chapter 1, Lawton City Code, 1995, by requiring as a prerequisite to the issuance, renewal or approval of any city license, permit, utility account or any other city service requiring an application, that said applicant first pay in full all outstanding balances said applicant owes the City. Provide direction to staff.

Vincent said Council requested we bring back an ordinance requiring payment of any outstanding balances before the issuance of permits or licenses. He said after writing this there were questions concerning fees and judgments, etc. All this was included so there would be a basis for Council discussion. He said he wasn't sure if Council wanted to include late book charges for the Library or things like that. When they developed this and showed it to staff, our computer system didn't have the capability of matching applications with past due accounts, especially the way some of the liens may be input; some things are done by addresses and some things are done by names. He said what they are looking at is how broad does Council want this to be. Then they are going to have to figure out a way to implement this, which you need to do before you pass it, once they get guidance on what you really want.

Patton asked how many applicants they get a day and how much of a burden will this put on staff. Vincent said if you count boat, hunting, fishing licenses, and garage sale permits, you are talking a lot of licenses and permits a day.

Mitchell asked if they want to include garage sale permits or have a current utility bill account. He said they can't just cross-reference that in our existing system. If you want to match it up with maybe one or two of these, then maybe they could do that, but if you're saying you won't issue a permit until all past due accounts are paid in full, then it's going to create a real problem.

Patton asked if this would be part of the computer system we had on the CIP. Mitchell said yes, hopefully they will be able to integrate that in our software, so they would be able to track all of those accounts by address and by customer. He said you also have a timing issue here also. Certain accounts are due at certain times of the month. If you were to include a water bill account for example, someone might be 30 days past due, but is that non-payment of my utility bill? We have a grace period and charge a penalty to it.

MOTION by Warren, to postpone this item to a time in the future when we are able to act on it.

Devine said the City Code Administration had a policy in the past, as a contractor, if you did not pay your inspection fees on time and got behind, they would not give you another inspection until you had your account paid up to date. He said in that case, he would not be able to be in business and get any City inspections. He said the City of Lawton has not billed his business for his inspection fees since April. He said he talked to Buckley about this today. He said his wife paid his bill in July for the fourth month and have not been billed since. He said that s a prime example of what s happening. He said they waived the policy of not allowing us to have additional inspections until they got their billing up to date. He said there are thousands of dollars of revenue laying on the books that has not been collected because we don t have the software to get this billing cycle done.

Buckley said it is sort of a growing pain, changing from a manual process system. MIS is going through the process of automating that with some of the other license and permits programs, so when an inspector goes out to do an inspection, they can fill it out on the computer. The computer can store that and on a monthly or bi-weekly basis, self-generate an invoice for that billing cycle.

Shanklin asked how many inspections are they talking about. Devine said in his small business, he runs anywhere from \$150-\$200 a month, and that s just \$15.00 per inspection.

Shanklin said Devine wouldn t wait five or six months before billing, he wouldn t stay in business long. Devine said that s what he s talking about. That is a lot of revenue laying there that hasn t been collected.

SECOND by Shanklin.

VOTE ON MOTION WAS HELD AT THIS TIME.

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

Buckley said they are generating the manual bills and anticipate within the next 3-4 weeks the program will be up and running, so we can have this automated and to simplify this process in the future.

Warren asked if we are going to incorporate, or wait into the future, where Devine would be able to request over the internet that an inspection be done. Buckley said that s going to be the next phase and hopefully we ll incorporate that within our billing.

Purcell said we need to reconsider something tonight. There is someone who would like to speak to Council about a claim we denied on the Consent Agenda. He said with Council s approval, would someone like to make a motion to re-consider item #1 on the Consent Agenda.

Vincent suggested re-consider the claim of Carl and Katherine Schwander.

MOTION by Warren, SECOND by Patton, to reconsider the following damage claims recommended for denial: Carl and Katherine Schwander. AYE: Warren, Givens, Devine, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

1. Consider the following damage claim recommended for denial: Carl and Katherine Schwander.

Vincent said this involves the claim of a Lawton Police Officer chasing a suspicious suspect through backyards in the area of NW 28th Street. The result of that, the claimant s fence was damaged. Either the suspect or the Police Officer jumped over the fence. Under the Oklahoma Governmental Tort Claims Act lists specific exemptions that state they cannot pay for damage caused by intention to enforce the law.

Shanklin asked if the law was to break down the door of one of his rentals, the City doesn t have to pay for that. Vincent said that is exactly correct.

Katherine Schwander said a Police Officer chased a guy through her yard, damaging two pieces of the fence. They went out and got 2-3 estimates and it will cost about \$150 to repair the fence, for both pieces.

Shanklin said that s not American, the City tore that lady s fence up and she did nothing to cause it. He said he is

going to make a motion and we re going to pay it.

Vincent said before Shanklin does that, he suggests he read Page 10, Council Policy 2-3.

MOTION by Shanklin, SECOND by Haywood, to approve the damage claim of Carl and Katherine Schwander.

Shanklin said he feels sorry that they have that type of attitude that they can t take care of something they tore up.

Devine said that s exactly what he was pointing out. He said they ran down the Botts fence and denied their claim. He said the person who seconded this motion is the same person who denied the Botts claim.

Patton said they have to look at the big picture and don t want to do anything that would discourage police chases. He said the police have a special obligation for public safety and he doesn t think they should pay.

Shanklin said, for the record, he asked Vincent if we go into the wrong house and shoot 3 or 4 people, we re not liable for anything because they were doing their duty and their job, right.

Vincent said no, that is not the rule. The rule is acting in good faith and in the performance of their official duties. He said the question in Shanklin s example would be, Were the officers acting in good faith?

VOTE ON MOTION WAS HELD AT THIS TIME.

AYE: Shanklin, Haywood. NAY: Givens, Devine, Patton, Warren. MOTION FAILED.

REPORTS:

Givens said the Museum of the Great Plains received a grant approval by the McMahon Foundation today, in the amount of \$100,000.

Shanklin thanked Mitchell for sending him a letter inviting him to the Revitalization of Downtown on Thursday. Shanklin informed Police Chief Thorne about graffiti on Ferris, the entire length from Vaska back. Most of it is on fences. He said on the 2700 block of G, H, and I Avenues, there are trashcans that have been put out on the curbs permanently. These are filthy with no lids and if we are going to allow that, there should at least have lids on those cans. He said he read in the paper they were going to go east and west on signs. He asked if they were going to do that first, instead of others. Purcell said the Sign Committee is working on this. We have enough sign ordinance in place now. Once we have the personnel on board, hire a replacement for the Supervisor s position, and hire the two additional inspectors, they will start on Cache Road and go from east to west, to west to east, in doesn t matter. They will take care of Cache Road, then they ll do Gore, then Lee, and then start on the cross streets, to try to get people to clean up their signs, based on the current ordinance or if the new ordinance is in effect, based on it. He asked when they were going to get some of these people hired. Mitchell said they started interviewing last Friday on the Neighborhood Services Supervisor position. He said they have had three interviews and will finish this week.

Patton announced that on September 24th, the Lawton Public Schools Foundation will be having a fundraiser breakfast at Golden Coral from 6:00 a.m. to 9:00 a.m. He said all proceeds will benefit the Lawton Public Schools Foundation, which is a private foundation that gives out grants to teachers each year in the Lawton Public School System. He encouraged everyone to come out. It is an all you can eat breakfast for \$10.00. He said he read in the paper that McMahon Foundation had matched our \$3 million on the old Lawton High School and this is very exciting news for Lawton.

Haywood said the Weed and Seed Program received either \$224,000 or \$226,000. He said \$112,000 will be going to law enforcement, 15% will be going to Lawton View, all these he has no problem with, but 85% will be spent in north Lawton and that, he has a problem with. He said that particular program, Weed and Seed, they received because of Lawton View. The person in charge of this program did not spend very much money in Lawton View, it always been spent up north. He asked if the new positions in Code Enforcement would just be in Ward 2, between Cache Road, Rogers Lane, and Sheridan Road.

Buckley said the area defined by Haywood, he is not familiar with. He said the two Code Enforcement Officers are being brought in under the CDBG Program with regards to Zone One, or Ward 2. He said it was part of the budget discussions with regards to the areas they would be focusing on. Buckley said because they are CDBG funded, they have to work in those areas that are funded or supported by the program. Haywood asked if they could go outside of those areas. Buckley said they could go outside those areas, but it is very limited. They need to spend 75-80% of their time in those areas that meet the criteria for CDBG funding. Givens said it is not just Zone One, it s in any low to moderate-income areas.

Haywood announced a football game between Lexon University and Southern Nazarene on Saturday, October 2, 2004 at Cameron University. He said this will be the second football contest that Lexon will have at Cameron.

Tickets may be purchased at Lawton-Ft. Sill Chamber of Commerce and Northside Chamber of Commerce. He announced that Ms. Freeman turned 100 on September 5th and they had a birthday party for her on Saturday, September the 11th. She received three citations; one from the Governor, Ron Kirby of the House of Representatives, and also from the Mayor's Office. She also had a lot of people attending, including the widow of Wayne Gilley. He said the thing that made her happy was receiving the Key to the City. She said she is going to use that key. He said there was another individual there who was 104 years old. Haywood spoke about the hate crime committed at Medicine Park where a soldier was involved. He said he has worked in Medicine Park and never had any problems. He said he feels this was an isolated case and a hate crime. He said he is definitely against anyone mistreating anyone and we don't need that here. He said he just hates this happened to that soldier who is fighting for this country and trying to make this country safe. He said that is uncalled for and hopes they find those individuals who committed this crime.

Warren reminded everybody about the International Festival on Friday, September 24th and invited everyone to get out and support this.

Shanklin said three weeks ago, he had someone inform him we didn't know how we could be in there and spend taxpayers money and allow it to clean up our alleys. He asked Vincent how we maintain our alleys so the dump trucks can get through there. Warren said Shanklin had misunderstood, his question was how do they expend money in easements, which are considered alleys. The City of Lawton cannot expend funds within the easements. Shanklin said that was wrong. He said the other thing staff refused to include in there was the 14 foot recommendation on low hanging trees, be done by the City. They did that for LATS and nobody ever jumped up and said they couldn't use taxpayer's money for that. He asked Council if they were going to clean up these alleys or just be the nastiest town next to one of those down on the Rio Grande. Warren said he just believes what Vincent tell him. Vincent said if they want to do the alleys, not easements, that is public property and they can amend the Code to say they will do the alleys. The easements are private property, there's a difference.

Purcell invited Council Thursday and Friday, and any citizens, to the workshop in Old Town Hall, to provide input on what you what to see done on the Downtown Revitalization, along 2nd Street and along C Avenue. They need input from citizens because it's what citizens want and they need input from the Council. He said we certainly appreciate what McMahon did and we will be sending a letter to that Board thanking them for the \$3 million. We are now up to \$6 million on the Revitalization Project. Purcell asked Council for their help in filing vacancies on boards and committees. He said he needs a name by Friday from Wards 3, 5, 7, and 8 of who they want on the CIP Watchdog Committee.

Mitchell said they received a refund check for \$28,800 from the Waurika Water Conservation District today. He announced Tim Golden, Human Resources Director will be leaving for a new position in Altus.

Mayor and Council convened into a executive session at 7:55 p.m. and reconvened in regular open session at approximately 8:46 p.m. with roll call reflecting all members present except Ewing-Holmstrom and Bass.

EXECUTIVE SESSION ITEMS:

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

Vincent read the title of Item 26 as shown above. He said Council convened in executive session and after discussion the City Attorney recommends no action at this time.

27. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending tort claim of Michelle P. and Gregory A. Hill, DC-2004-66, against the City of Lawton, and if necessary, take appropriate action in open session.

Vincent read the title of Item 27 as shown above. He said Council convened in executive session and after discussion he recommended a motion.

MOTION by Patton, SECOND by Shanklin, to deny the pending tort claim of Michelle P. and Gregory A. Hill, DC-2004-66, against the City of Lawton. AYE: Shanklin, Patton, Haywood, Warren, Givens, Devine. NAY: None. MOTION CARRIED.

28. Pursuant to Section 307B.3 and D, Title 25, Oklahoma Statutes, consider convening in executive session to accept the appraisal for the Hagger property, and if necessary, take appropriate action in open session.

Vincent read the title of Item 28 as shown above. He said Council convened in executive session and after discussion there is a possible sale.

MOTION by Warren, SECOND by Shanklin, that the appraisal of the property known as the Hagger Property, located at 203 Bishop Road, containing 10.394 acres, more or less, be accepted and the property be sold under the guidelines of the

Local Industrial Development Act, in the amount of \$10,000 as the fair market value of the property, to the Lawton Industrial Foundation and further direct that the appropriate deeds and other transfer documents be prepared and authorize the Mayor and City Clerk to execute said documents which shall contain a reversionary clause back to the City. AYE: Shanklin, Patton, Haywood, Warren, Givens, Devine. NAY: None. MOTION CARRIED.

29. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending Workers Compensation case of Charles Cook, Case No. 99-12430 A, and if necessary, take appropriate action in open session.

Vincent read the title of Item 29 as shown above. He said Council convened in executive session and discussion was held regarding possible settlement of this claim.

MOTION by Givens, SECOND by Warren, to authorize the City Attorney to settle the pending Workers Compensation case of Charles Cook, Case No. 99-12430 A and if a proposed settlement is reached, return to confirm the settlement by action of the City Council. AYE: Patton, Haywood, Warren, Givens, Devine, Shanklin. NAY: None. MOTION CARRIED.

30. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the settlement of the City's subrogation interests in the personal injury case of Gina Vanover, and if necessary, take appropriate action in open session.

Vincent read the title of Item 30 as shown above. He said Council convened in executive session and a letter was received from their attorney requesting we waive our subrogation and this was discussed.

MOTION by Warren, SECOND by Haywood, to authorize the City Attorney to negotiate our claim of subrogation of our medical claims in the case of Gina Vanover, but only if the attorneys for the claimant waive their fees by a like percentage, in the alternative, the City expects full payment of its subrogation claim in the amount of \$3,229.59 and in either event, authorize the City Attorney to execute all necessary documents. AYE: Haywood, Warren, Givens, Devine, Shanklin, Patton. NAY: None. MOTION CARRIED.

There being no further business to consider, the meeting adjourned at 8:52 p.m. upon motion, second and roll call vote.