

of the resolution authorizing the City Attorney to file a friendly suit for the claims which are over \$400.00: Renate and Jonathan Morgan in the reduced amount of \$1,360.74 (**Res. No. 07-139**), Branding Iron BBQ, Inc. in the amount of \$495.00 (**Res. No. 07-140**), Ezra and Adriene Davis in the reduced amount of \$10,263.47 (**Res. No. 07-141**), Travis and Leslie Thorpe in the reduced amount of \$5,000.00 (**Res. No. 07-142**), James and Nancy Elliott in the amount of \$3,440.31 (**Res. No. 07-143**) and Damian Everette in the amount of \$17,500.00 (**Res. No. 07-144**). Exhibits: Legal opinions/Recommendations, Resolution No. 07-____, Resolution No. 07-____, Resolution No. 07-____, Resolution No. 07-____, Resolution No. 07-____, Resolution No. 07-____.

2. Consider the following damage claims recommended for denial: Tomas Tapia in the amount of \$30.00 and Julio and Donna Macias in the amount of \$901.38. Exhibits: Legal Opinions/Recommendations.

Shanklin stated he knows Julio and Donna Macias. He stated the part he did not like is that there were people who stated that Dillon Wiley drove recklessly at all times, but there was not a statement from anyone.

Jensen stated he does have two statements.

Shanklin questioned if these statements would be accepted in a court of law.

Jensen stated if the claim is denied and a lawsuit is filed, the people would be called as witnesses. He stated staff recommended denial of this claim because ruts are common on lake roads. The rut in question is open and obvious. There is a posted speed limit sign of 5 mph and this young man has a reputation of driving too fast for the lake road. The statements are from his neighbors who were in the camp site.

MOVED by Shanklin, SECOND by Hanna, to deny the damage claims of Tomas Tapia in the amount of \$30.00 and Julio and Donna Macias in the amount of \$901.38 AYE: Drewry, Jackson, Shanklin, Patton, Haywood, Shoemate, Hanna. NAY: None. MOTION CARRIED.

3. Consider approval of the Retainer Agreement for Professional Services with Mary Anne Derrico, RN, to provide professional services to the City of Lawton, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Agreement.

4. Consider adopting a resolution ratifying the action of the City Attorney and the City Manager in directing our third party administrator to make payment on the judgment in the Workers' Compensation case of Jason Johnson in the Workers' Compensation Court, Case No. 2006-03032 X. Exhibits: **Resolution No. 2007-145**.

5. Consider adopting a resolution ratifying the action of the City Attorney and the City Manager in directing our third party administrator to make payment on the judgment in the Workers' Compensation case of Darrell Southerland in the Workers' Compensation Court, Case No. 2007-01452 J. Exhibits: **Resolution No. 2007-146**.

6. Consider approving the Contract for Sale of surplus property located at 1210 SW G Avenue, in the amount of One Thousand Dollars (\$1,000.00), and authorize the Mayor and City Clerk to execute the Contract for Sale and a Quit Claim Deed. Exhibits: The Contract for Sale and Quit Claim Deed.

7. Consider approving a professional services agreement with Meyer Architecture Plus L.L.C./Structures America Innovative Engineering, PLC for the structural testing and evaluation of existing concrete flooring for the CJHS Restoration Project Phase II. Exhibits: Structures America Innovative Engineering, PLC agreement for Provision of Limited Professional Services and October 29, 2007 Memo from Gary Armbruster, AIA, Meyer Architecture Plus.

8. Consider entering into an agreement with CGI Communications, Rochester New York, to provide promotional videos of the City of Lawton free of charge showcasing the City of Lawton. Exhibits: CGI Communications Agreement, Letter of Introduction of CGI Communications.

9. Consider approving the first option to renew request from Kent Waller in accordance with Amendment No. 3 of the Ground Lease and Non-Exclusive Concession Operation agreement between the Lawton Water Authority, Schoolhouse Slough, Inc., and the City of Lawton, Oklahoma. Exhibits: Amendment No. 3 of lease, Council Agenda December 10, 2002 and letter of request from Mr. Kent Waller to excise his first (1st) five (5) year option. **THIS ITEM WAS STRICKEN**

10. Consider approving cooperative purchase agreement for the Holiday in the Park, Holiday House. Exhibits: Holiday House Cooperative Purchase Agreement

11. Consider approving operation agreement for the Holiday in the Park, Holiday House. Exhibits: Holiday House Operation Agreement.

12. Consider approving plans and specifications for the Water Storage Tank Floor Project #2007-9, authorizing additional funding and authorizing staff to advertise for bids. Exhibits: None.

13. Consider approving Change Order #1 for the Lake Ellsworth Bypass Project #2004-2 with Bowles Construction Company. Exhibits: None.

14. Consider adopting a Resolution authorizing the installation of traffic control measures along NE Brentwood Dr., NW Euclid Dr., NW Santa Fe Dr., and NW 40th St. Exhibits: Traffic Commission Minutes, Traffic Issue Requests, and **Resolution No. 07-147**.

15. Consider denying the request for installation of traffic control measures along NE Brentwood Dr., and NE Shelter Creek Dr.; and at the intersection of NW 40th and NW Meadow Brook Dr.; and SW Arbuckle Avenue and SW Chisholm Trail Blvd. Exhibits: Traffic Commission Minutes, Traffic Issue Requests.

16. Consider accepting the 12-inch waterline constructed in the 7600 block of NW Cache Road to serve Southwest Plaza, maintenance bond, and easements. Exhibits: Location Map. Maintenance Bond and Easements on file in City Clerk's Office.

17. Consider approving the construction plat for Katy Ridge subject to conditions. Exhibits: Plat Map.

18. Consider approving the construction plans for a 6-inch waterline crossing Gore Boulevard for a fire hydrant to serve #1 SW 11th Street. Exhibits: Location Map.

Mitchell stated that items #19 and #20 should be considered together. Actually, #20 should be voted on first and then approve #19. On #19 there is a performance bond in the amount of \$246,185 which should be reduced to \$150,000. The developer has done additional work since the item commentary was written.

20. Consider entering into a Lease-Purchase Agreement with Opela Partners, LP, for approximately 2,106 linear feet of 10-inch diameter sanitary sewer main located east of SW 52nd Street and north of SW Bishop Road and accept maintenance bond. Exhibits: Sanitary Sewer Main Location Map and Lease Purchase Agreement with exhibits. Maintenance Bond on file in City Clerk's Office.

MOVED by Shanklin, SECOND by Drewry, to enter into a Lease-Purchase Agreement with Opela Partners, LP, for approximately 2,106 linear feet of 10-inch diameter sanitary sewer main located east of SW 52nd Street and north of SW Bishop Road and accept maintenance bond. AYE: Jackson, Shanklin, Patton, Haywood, Shoemate, Hanna, Drewry. NAY: None. MOTION CARRIED.

19. Consider approving the record plat for The Highlands, Part 1, and accepting an escrow in lieu of completing functional improvements, easements outside the platted area, money in lieu of park land dedication, and money in lieu of detention. Exhibits: Plat Map. Easements are on file in the City Clerk's office.

Shanklin stated at one time the person had to make notification by midnight of a certain month or they were ruled out of contention of recovering any money. He questioned if that was still in effect.

Richard Rogalski, Planning Director, stated the lease purchase agreement was revised in 2006 so this is a new process. This application was approved by City Council on December 16th so they did follow all the steps required.

Shanklin questioned if the developer has to let us know if they want their money back.

Rogalski stated there is no specific time but before they construct they have to have an application approved by City Council so we know that they intent to do a lease purchase agreement.

Shanklin stated it was not like that in the past.

Rogalski stated they have had three applications so far and there are not pending applications.

MOVED by Shanklin, SECOND by Haywood, to approve the record plat for The Highlands, Part 1, and accepting an escrow in lieu of completing functional improvements, easements outside the platted area, money in lieu of park land dedication, and money in lieu of detention. AYE: Shanklin, Patton, Haywood, Shoemate, Hanna, Drewry, Jackson. NAY: None. MOTION CARRIED.

21. Consider setting the date of December 11, 2007, to hold a public hearing and consider an ordinance closing portions of SW 24th Street and SW 24th Place south of Jefferson Avenue. Exhibits: Application, Location Map and Council Policy 5-1.

22. Consider awarding (CL08-014) Water Purification Unit to Fisher Scientific Co. LLC of Hanover PK, IL. Exhibits: Department recommendation, abstract of bids.

23. Consider awarding (RFPCL08-015) H.C. King Re-Roofing Project to Clayco Industries Inc. dba Ford Roofing & Sheet Metal Co. of Lawton, OK. Exhibits: Department recommendation.

24. Consider approval of payroll for the period of October 15 - 28, 2007.

BUSINESS ITEMS:

Mayor Purcell questioned if anyone in the audience wished to talk about any of the dilapidated structures.

Haywood stated there is one person in the audience who wishes to speak.

25. Hold public hearings and adopt resolutions declaring the structure(s) at: 618 S.W. H Avenue, 622 S.W. H Avenue, 626 S.W. H Avenue, 1409 S.W. Oklahoma Avenue, 1914 S.W. B Avenue to be dilapidated public nuisances, thus causing a blighting influence on the community and detrimental to the public s health and safety. Authorize the City Attorney to commence legal action in district court to abate each nuisance. Further authorize Neighborhood Services to solicit bids to raze and remove each dilapidated structure, if necessary. Exhibits: Resolutions. Summary documents with supporting photos and reports from the Fire Marshal, Housing Inspectors, and case history are available from Neighborhood Services.

618 SW H Avenue: Anthony Griffith, Neighborhood Services Supervisor, presented photographs of the property. The property has been without utilities since June 2005.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Shanklin, SECOND by Drewry, to approve **Resolution 07-148** declaring the structure at 618 SW H Avenue to be a dilapidated public nuisance. AYE: Patton, Haywood, Shoemate, Hanna, Drewry, Jackson, Shanklin. NAY: None. MOTION CARRIED.

Griffith stated that 622 SW H Avenue and 626 SW H Avenue should have been stricken from the agenda.

MOVED by Shanklin, SECOND by Drewry, to table 622 SW H Avenue and 626 S.W. H Avenue. AYE: Haywood, Shoemate, Hanna, Drewry, Jackson, Shanklin, Patton. NAY: None. MOTION CARRIED.

1409 SW Oklahoma Avenue: Griffith presented photographs of the property. There are two structures on this property. The property has been without utilities since December 2002.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

Mitchell distributed a letter from George H. Tahdooahnippah from Comanche Nation Environmental stating they have filed the necessary paper work for the demolition of the homes on the lot. Mitchell stated if the City Council passes the resolution, the cost at the landfill will double. He suggested they table this item so that they will only pay costs for a voluntary demolition.

MOVED by Haywood, SECOND by Shanklin, to table. AYE: Shoemate, Hanna, Drewry, Jackson, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

1914 SW B Avenue: Griffith presented photographs of the property. He stated this is an accessory structure.

PUBLIC HEARING OPENED.

Melissa Harwood stated her son just bought this structure and they have made plans to take the addition off of the back and re-roof the front garage and add the windows. She stated she has applied for a permit.

Jackson questioned if the garage was part of the problem.

Griffith stated yes.

Jackson stated just because she has applied for the permit that does not mean it has been issued.

Griffith stated she applied for the permit during the time the notices were sent out so everything was put on hold pending the decision of the Council.

Mayor Purcell stated if the Council passes this resolution, she still has thirty days to get the permit.

Shanklin questioned when this was bought.

Ms. Harwood stated her son bought this property approximately four months ago.

Shanklin stated this will have to be brought up to code and it will be inspected. He does not think they will be able to do it. They will have to spend a lot of money.

Ms. Harwood stated her and her husband have been doing home repairs for thirty years.

Shanklin stated he would like to see what the City will accept when this is done.

PUBLIC HEARING CLOSED.

MOVED by Shanklin, SECOND by Hanna, to approve **Resolution 07-149** declaring the structure at 1914 SW B Avenue to be a dilapidated public nuisance. AYE: Shoemate, Hanna, Drewry, Jackson, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

26. Hold a public hearing and consider an ordinance changing the zoning from R-1 (Single-Family Dwelling District) to C-1 (Local Commercial District) zoning classification located at #1 Morford Drive and 1925 West Gore Boulevard. Exhibits: Ordinance 07-__, Location Map, Application, Site Plan and CPC Minutes.

Rogalski stated request is for Lots 15 and 16, Block 5, Lee Addition, which measure a total of 135.3 feet by 140 feet. This is located on the NE corner of NW Morford and West Gore Boulevard. The proposed use is a drive-thru coffee shop. Staff has informed the applicant that there are a number of problems with the site plan. There are site triangle problems and no parking. However, staff can support the idea of rezoning this property to commercial.

The zoning of the surrounding area is R-1 to the north and C-1 to the south, east and west. The land use of the surrounding area is single-family residential to the north, commercial (Burton Realty, Fins and Critters, Ramon s Flowers) to the south, single-family residential and vacant to the east, and IBC Bank is under construction to the west. The 2025 Land Use Plan designates these lots as Commercial. C-1 is the most restrictive commercial district and the most restrictive district which allows a drive-thru coffee shop.

On October 11, 2007 the City Planning Commission held a public hearing on this request. During the public hearing, one person spoke in favor of the request, and two persons spoke against the request. The CPC, by a vote of 6 - 0, recommended approval of the rezoning.

Notice of public hearing was mailed on October 16, 2007 to 41 property owners within 300 feet of the requested area, and proper notice was published in *The Lawton Constitution* on October 21, 2007. Two calls in support of the request have been received.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Shanklin, SECOND by Jackson, to adopt **Ordinance 07-59**, waive the reading of the ordinance, read the title only. AYE: Hanna, Drewry, Jackson, Shanklin, Patton, Shoemate. ABSENT: Haywood. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 07-59

An ordinance changing the zoning classification from the existing classification of R-1 (Single-Family Dwelling District) to C-1 (Local Commercial District) zoning classification on the tract of land which is hereinafter more particularly described in section one (1) hereof; authorizing changes to be made upon the official zoning map in accordance with this ordinance.

27. Consider waiving Council Policy 1-6, and if approved, reconsider the naming of S.W. G Avenue from 3rd Street to 6th Street to Dr. Joe R. Williams, Sr. Avenue and if renamed back to S.W. G Avenue, approve the dedication of S.W. G Avenue from 3rd Street to 6th Street in honor of Dr. Joe R. Williams, Sr. Exhibits: Minutes from the Lawton City Council meeting of May 8, 2007. **THIS ITEM WAS STRICKEN.**

28. Consider an ordinance adding Section 2-5-1-502, Division 2-5-1, Article 2-5, Chapter 2, Lawton City Code, 2005, by establishing guidelines for renaming of public streets and honorary designation of streets, providing for severability, codification and establishing an effective date. Exhibits: Ordinance No. 07-__. **THIS ITEM WAS STRICKEN.**

29. Consider an ordinance adding Section 2-5-1-502, Division 2-5-1, Article 2-5, Chapter 2, Lawton City Code, 2005, by establishing guidelines for the honorary designation of a street, providing for severability, codification and establishing an effective date. Exhibits: Ordinance No. 07-__. **THIS ITEM WAS STRICKEN.**

30. Discuss Chapter 18-8-1-804, Lawton City Code 2005 regarding criteria for driveways and openings for one and two family dwelling units and take appropriate action if necessary. Exhibits: Chapter 18-8-1-804, Lawton City Code, 2005.

Shanklin stated he is now living at 816 Arlington. He wanted to put in a driveway and he spoke with someone who would lay asphalt. He spoke with License and Permit Division and was told there would be no problem with laying asphalt. He then received a call back and was told it had to be concrete to the property line. He distributed pictures of various locations where the asphalt begins at the curb. His point is that he spoke with Mr. Rogalski and he did get a copy of the ordinance which states he had to have concrete to the property line. He stated that is a 100 foot easement in front of his house. All he is asking is to be allowed to do what everyone else has done within five or six blocks of his house.

Rogalski stated he cannot explain what happened with those other properties but he can speak to the city code. He apologized that Councilmember Shanklin received incorrect information. The code requires concrete from the gutter line 2 feet up towards the property. Commercial driveways are required to be concrete all the way to the property line and that is where the miscommunication came in. The code does not dictate what material is to be used between the 2 feet beyond the gutter other than sidewalk.

Shanklin stated he is upset. He waited six weeks and he is going to be in the dead of winter and he did not promote this. He questioned if they are going to come out and measure that 2 feet.

Rogalski stated they are trying to maintain the integrity of the gutter and the flow of water.

Shanklin stated the storm drain at the corner of 9th and Arlington backs up to 808 Arlington and crosses the alley to 807 Gore.

Rogalski questioned if the grate at 9th and Arlington is clogging.

Shanklin stated it is a mat. You can almost pick it up. The City has done something in the alley to the grate. He stated he can handle to water that comes from the rain, but he cannot handle the water coming from the street. He stated he would like to see us shoot that to see how bad we really are from 9th and Arlington back to 8th Street. We are spending millions of dollars out west for BRAC, but those folks that live downtown are out of luck. It could be a very easy problem to alleviate. He spent the whole day going around taking all of these pictures. All he wants is to be able to do what other people do. If one can do it we should all be able to do it. He questioned what he was safe in doing.

Rogalski stated the requirement for Councilmembers drive or any other residents driveway is from the gutter line the code requires 2 feet of concrete. Beyond that, other than the sidewalk, you can use asphalt.

Shanklin stated he was going to put a sidewalk in.

Rogalski stated sidewalks should be concrete. Asphalt sidewalks do not hold up very well.

Shanklin stated he likes the aesthetics of asphalt and if he can't do it with asphalt he will do something else. He stated no one else is doing it and that is his point.

Mayor Purcell stated we could make all of these other places take it out.

Shanklin questioned why we would make them take it out. They are just trying to get by.

Mayor Purcell stated they are blaming staff for something that this Council passed as an ordinance. If staff violates the ordinance, Council would jump all over staff. When staff enforces the ordinance, Council jumps all over staff. He stated if Councilmember Shanklin does not want this, he needs to bring it back as a new item and say we don't need concrete anymore, we need asphalt and we will change the ordinance.

Shanklin stated his point is what would the city like better in a driveway when we have to come fix a leak and chisel it up, asphalt or concrete? He questioned if he could do this or not.

Patton stated the bottom line is they either need to change the ordinance or not change the ordinance. It is not whether or not Councilmember Shanklin should do it or not. If it is a good ordinance let's leave it alone or if it is bad let's change it.

Shanklin stated he is going to put his asphalt in. If other people can do it, he can do it. He does not mind putting in the concrete up 30 and he will even go 3 more. He stated this has been time consuming and he is mad. This is just simply not right. He wants to vote on this. He wants to be able to use asphalt and he wants to use it in the combination of what everyone else has. He questioned if anyone had a problem with that.

Mayor Purcell stated they can't just vote. Are they going to decide that when they pass ordinances they are just going to ignore them?

Shanklin stated he does not want to wait all winter. He wants his driveway done this year, not next spring.

Mayor Purcell stated Councilmember Shanklin cannot just violate the ordinance. Everyone cannot violate the ordinance when they want to.

Shanklin stated there is a ton of it.

Mayor Purcell suggested Councilmember Shanklin agenda an item to change this ordinance and they will look at it in two weeks. If Council wants to change the ordinance to let everyone use asphalt instead of concrete, then they will do it.

Rogalski stated that Chapter 18 does require notice in the newspaper and it does have to go to City Planning Commission.

Shanklin stated there is no doubt they can put him off until a year from now.

Ihler stated Councilmember Shanklin can put in an asphalt driveway in accordance with the code. All he needs to do is put in that 2 foot apron in concrete because of the drainage through the gutter. If that part is asphalt it will deteriorate in a couple of years. Beyond that apron, the code allows you to put in asphalt.

Shanklin stated in Old Town North you will find over 100 driveways that are gravel. This would help more people be able to get to that point that they could have a hard surface driveway and that would help clean up the city. He stated this is not just for him, he has to tow the line.

Ihler stated the asphalt driveway is allowed with the exception of that 2 foot apron which is essentially a drainage ditch for the flow of water. That is all that has to be concrete.

Shanklin stated if he brings this to Mr. Ihler that says it has to go to the property line, what will he say then.

Ihler stated he does not believe the code says it has to go to the property line.

Shanklin stated he has it somewhere where it does say that. He got it from staff. He stated there are two sets of rules, you don't ask and you get by with it, if you ask you are in trouble.

31. Discuss Chapter 22-2-1-215, Lawton City Code, 2005, regarding water leak adjustments and take appropriate action if necessary. Exhibits: Chapter 22-2-1-215, Lawton City Code, 2005.

Shanklin invited Mr. Clifford Douglas to come before the City Council and explain his dilemma.

Mr. Douglas stated there is a bible class that meets at 525 SW 11th Street. For the last three months they have experienced high water bills. He stated the bill is normally \$44 per month and it has gone to \$84 to \$106 to \$110. He stated city crews came out and a leak could not be found. They say it is a running toilet. They have done all of the adjustments and all of the tests and there is no leak. They were told there is nothing that can be done because they are a business. If they were a resident there are provisions to be reimbursed.

Shanklin stated since they are a business that makes them a third class citizen.

Patton questioned if a plumber looked at it or just city crews.

Mr. Douglas stated the city looked at it and he had done plumbing for thirty years and he has done all of the tests as a licensed plumber would do. Now they just have the water turned off. There was a meter change with a leak detector placed on it and it just sits there with no water usage. He was told the city does not have faulty meters. He stated he cannot even see the numbers on the meter.

Mayor Purcell stated the difference is not between business versus houses only. To get relieve on a home, it has to be an underground, undetected leak and eventually someone finds that leak. They do not give relieve to someone getting a higher bill every month and not getting it fixed, even if it is a private house. He questioned if they have found any underground leak.

Mr. Douglas stated they have found no leak.

Mayor Purcell questioned what kind of relieve Mr. Douglas was looking for from the City.

Mr. Douglas said the meter is about eighteen inches in the ground and it travels about eight feet to the building. He was told they used 19,000 gallons one month and in six days they used 11,000 gallons. That building should be floating. There is no water anywhere.

Shanklin questioned if there was a toilet leaking.

Mr. Douglas stated they do not have a toilet that is leaking or a faucet that is leaking.

Jackson questioned if there was another tap that could be running to the business next door.

Mr. Douglas stated they were told that each building has their own meter.

Shanklin questioned if Mr. Douglas has been in the building three or four months.

Mr. Douglas stated they have been in the building for five or six years.

Shoemate questioned if Mr. Douglas could change out that meter.

Mr. Douglas stated in September the city put in a new meter and ran it for a week then put the old one back in.

Rick Endicott, Finance Director, stated they need to change the meter and if they can determine it is a faulty meter then they can make the adjustment internally. He stated he needs to verify what exactly they have done. He will work with Mr. Douglas and they will try to work it out.

Shanklin stated on September 12, 2006 they changed the code to give adjustments to single residential homes only. Businesses and duplexes are not eligible. Are they saying that business people are second class citizens and they cheat and lie?

Mayor Purcell stated that when this was passed they discussed that people that are in homes who have yards do not notice wet spots from underground undetected leaks. The distinction is that someone is at a business five days a week and they would notice a leak, not that businesses were second class citizens.

Shanklin stated they had 5,000 leaks one summer and he does not think the business people are the enemy of the City Council. He questioned if there was much of a loss in the business end of water sales. Are there still many business people who request an adjustment to their water bill.

Endicott stated there are some, but there are more residential than business. He stated he could work with Mr. Douglas and if it is an internal issue with either the meters or a billing issue they can adjust that and not have to bring it back to the City Council.

Jackson suggested they bring the ordinance back and discuss it.

Shanklin stated they will talk about it.

32. Discuss and take appropriate action as necessary concerning a request to consider cost share assistance with Indian Nation Wholesale for the cost of required fire hydrant as related to their building project located at 3602 SW 11th Street. **THIS ITEM WAS STRICKEN.**

33. Consider an ordinance pertaining to animals amending section 5-1-101, 106 and 106.1, Article 5-1, Chapter 5, Lawton City Code: by providing for the definition of health certificate; by providing that the voluntary transfer of dogs and cats without compensation shall not require a BAT permit if the animal is already spayed or neutered and has a license with the City; by providing that pet shops shall only sale dogs and cats acquired from USDA licensed breeders, breeders who have obtained a BAT permit from the City of Lawton, or breeders from within the State of Oklahoma, and each dog or cat acquired must have health certificates and vaccination records; providing that no pet shop will accept any dogs or cats from the public unless the animals are already spayed or neutered and have an A license; and establishing that pet shops will provide the Lawton Animal Welfare Division the original copy of the pet shop advertising/transfer form no later than the last day of each month; providing for severability; and declaring an emergency.

Mayor Purcell stated there are three items in this ordinance that are clean up items. He stated staff has added the definition of a Health Certificate and added some clean up language.

Shanklin questioned if this was the whole ordinance.

Mayor Purcell stated no, these are just the proposed changes.

Jackson stated he is a strong supporter of the spay and neuter law that was passed. He stated there are a couple of pet shops in town that are legitimate businesses that operate and pay sales tax and do contribute to the community. It is hard for him to put undue restrictions on them that we do not put on other small businesses. He stated these changes only add a couple of statements that gives them the opportunity for a legitimate business in town to buy their animals. He stated this expands the opportunity for these people to buy animals and still provides security for the citizens that purchase these animals from pet shops. He stated this is simple and clean and should not cause any problems.

PUBLIC HEARING OPENED.

Terry McCutcheon, Fins and Critters, stated over all they were not happy with the ordinance but this will make it where they can do business. This ordinance has basically stopped them from doing business. They are fine with the changes.

Shoemate stated he is concerned about breeders located outside the city limits of Lawton but located in the State of Oklahoma. He thought that is why this was passed because of those puppy mills outside the city limits.

Mr. McCutcheon stated that essentially if they buy locally they will have to have a BAT permit from the City of Lawton. This will allow them to buy either from a USDA breeder outside the city limits or they can buy from someone outside the city limits, but they will still have to furnish a health certificate and shot records for those animals that they sell.

Jackson stated there are still restrictions on every avenue of the method of purchase.

Mr. McCutcheon stated the health certificate will come from a local vet.

Jackson stated if he is in business, he would want to make sure he warranties his product. He does not believe that these people would sell an animal knowing that the animal was sick.

Mr. McCutcheon stated they have always had a written guarantee on their animals.

Mayor Purcell stated he understands that this change would allow them to buy from any breeder anywhere in the state of Oklahoma as long as they have a health license. He was told that the way they had it now, if we don't make changes, then they can only buy from puppy mills. It just seems that if you go outside the city limits, that is who you are buying from.

Mr. McCutcheon stated this would allow them to select the dogs that they buy from the breeders they choose. A lot of dogs they buy are from mom and pops that raise dogs. The old ordinance forces them to go to a kennel. He has not sold a dog since March because he will not sell those dogs.

Mayor Purcell stated let's say another pet store opens up in Lawton and they only buy from somewhere outside the city of Lawton. This says that they can go anywhere they want and buy pets even if it is from a puppy mill.

Mr. McCutcheon stated they still have to provide a health certificate and shot record for the dog. He stated they still have to turn in that information.

Mayor Purcell stated they could buy them all from outside the city limits.

Mr. McCutcheon stated they have been in business for twenty three years now. Do you think he has done that with selling poor animals? He stated why don't they worry about that when it happens.

Mayor Purcell stated that is the problem, then it is too late. It is not geared for just the existing two pet stores, it is geared for everyone.

Jackson stated he disagrees. They have to understand that people go into business and then tend to operate in good faith.

Mayor Purcell stated he hears that the ordinance as it was is forcing people into buying from puppy mills and what he sees now with the changes, it allows someone to buy

Mr. McCutcheon questioned what the difference was in him buying from a USDA breeder or him buying from an individual outside the city limits. What are they trying to impose on him? Are they trying to say that a USDA breeder will sell him a better animal?

Mayor Purcell stated he is relying on the business owner to do what is right. But what do they do for the next guy

that comes in who isn't as scrupulous.

Mr. McCutcheon stated as long as they provide that health certificate when that animal is sold to the public, then they are the ones that are liable.

Ihler stated that is the concern of staff. They felt that it should be a USDA licensed breeder and what you get with that breeder is the inspection. This change, in essence, allows them to buy from puppy mills and they don't want to support that action.

Mayor Purcell questioned that if they require a certification and health certificate won't that solve the problem? That might even be better than with someone with just a USDA license.

Ihler stated as he understands, with the USDA breeders inspection there are certain animals that have histories of problems that even a veterinarian could not determine. If you buy from a poorly run puppy mill you could get animals like that.

Dr. Howard Haney stated the USDA inspections check the housing, ventilation of the facility, lighting, interior surfaces, routines, pet control, feeding and watering of animals, record keeping, veterinary care and also the compatibility of the animals. He stated they also look at how the breeder handles the animal and the regulation of the transfer of the animal. He stated they need to remember health certificates. The veterinarian is presented with an animal and he does the physical exam. Based on that physical exam, the health certificate says that the animal appears to be healthy on that day. The USDA looks at so much more. He would like to see us keep the USDA approved source of animals. He is afraid if we don't, we may be inadvertently supporting puppy mills.

Joe Marable, 7703 NW Chesley Drive, stated he owns M & M Pet Shop. He stated there are no USDA approved facilities in Lawton. There are very few in Oklahoma. When the ordinance was passed they started looking for breeders. Over the past few years, a lot of USDA breeders have dropped the USDA certification and sold animals over the internet. He stated when he does find a breeder the cost is 30-50% higher than any puppy they can buy locally or outside the city limits. He stated they have lost 25-30% of their business over dog and cat related items. He stated pet shops contribute to only about 7% of the category of unwanted pets. He stated no one is going to pay \$400, \$500 or \$600 for a puppy or kitten and release it. They have seen a decline in business and they have had customers complain about the ordinance. He stated they cannot compete as business people in this community. They cannot stay in business by selling sick animals. They provide a variety of good, healthy pets. His number of employees have gone from ten people to six people and that is a direct result from this ordinance.

Jackson stated these are legitimate businesses and good people and they have a duty to provide a good service and a good product.

PUBLIC HEARING CLOSED.

MOVED by Jackson, SECOND by Shanklin, to adopt **Ordinance 07-60**, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Drewry, Jackson, Shanklin, Patton, Haywood, Shoemate, Hanna. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 07-60

An ordinance pertaining to animals amending Section 5-1-101, 106 and 106.1, Article 5-1, Chapter 5, Lawton City Code: by providing for the definition of health certificate; by providing that the voluntary transfer of dogs and cats without compensation shall not require a bat permit if the animal is already spayed or neutered and has a license with the city; by providing that pet shops shall only sale dogs and cats acquired from USDA licensed breeders, breeders who have obtained a bat permit from the City of Lawton, or breeders from within the state of Oklahoma, and each dog or cat acquired must have health certificates and vaccination records; providing that no pet shop will accept any dogs or cats from the public unless the animals are already spayed or neutered and have an A license; and establishing that pet shops will provide the Lawton Animal Welfare Division the original copy of the pet shop advertising/transfer form no later than the last day of each month; providing for severability; and declaring an emergency.

34. Consider receiving a report on the City's financial condition for the 1st Quarter of fiscal year 2007-2008, and provide direction to staff. Exhibits: None.

Endicott stated this report is for July 1 through September 30, 2007. He stated all of the percentages should be compared with 25% for the year. The sales tax is up \$186,334 as compared to last year. Budgeted revenue for sales tax is \$19,768,575. They have collected \$4,885,493 or 24.71%. Franchise tax is down \$51,000 compared to last year. We have collected almost 20% of franchise budgeted revenue. Police fines and bonds are up \$93,000 or 16% compared to last year. We have collected about 23.21% of our budgeted revenue in police fines. All other general revenue is up \$157,000 and we have collected almost 24% of that.

Jackson questioned if the 3.9% increase for the sales tax was projected and included in the budget.

Endicott stated staff included about a 3% increase.

Endicott stated water revenue is down \$1,058,464 from last year or almost 26%. They attribute some of this to the settlement agreement with the rural water associations. In general we have collected almost 23% of the budgeted revenue. When they compare to last year that is not necessarily a tool you want to use when comparing your budget. He prefers to look at the percentage number. He stated if we continue through this pattern through the rest of the fiscal year, our revenue stream could see a pretty good shortfall as compared to the budget. He stated we have instituted discussions with the department heads and they are looking at travel and how we use vehicles.

Jackson questioned if that was the City Manager's decision making process. He questioned if Mr. Endicott advised.

Endicott stated the we referred to the City Manager.

Jackson stated he wants to hold the City Manager responsible if we don't sell water.

Shanklin stated fifteen or seventeen years ago we had that cool and wet summer and everyone enjoyed it. He stated they put a surcharge on for four or five months. They made up for the shortfall in three months. He does not see us being alarmed with how we spend our money. Instead of cutting back, he feels we should look at that surcharge to make that up. You cannot cut \$1 million out of the budget. He knew this was coming.

Endicott stated there are things they can do. They can help to control expenses. The departments have a very bare bones budget and there is not a lot of money in there. He is worrying about 2008-2009. He stated they need to be concerned about the water revenue but he would like to go through another quarter and see how we are doing. He is hoping that FEMA will come through with some funds.

Jackson stated it is the time to start thinking about this.

Mitchell stated they think about it all the time. The number he tries to focus on is where we are percentage wise on both revenues and expenditures versus the quarter we are in. So far this year we are at 25%. The total revenue collected is right at 23% and expenditures are slightly over 25%. They are hoping that next quarter that trend will balance out a little. He stated if things don't improve, staff will be making some recommendations in the next quarter. The other thing he looks at is what the audit tells us. We want to make sure that what the audit tells us about our financial condition is what we saw and what we recommended during our budget process. When those two numbers match up, then we will get a much clearer position and picture of our financial condition.

Endicott stated he wanted to make clear that we don't have a million dollar shortage. Our budget is just under 25%.

Shanklin stated we do have a shortage in water revenues.

Endicott stated we do not. We are \$1 million less in revenue than what we collected last year. But compared to our budgeted number, he cannot say we are \$1 million short. That would not be a true statement. We are at 23% of our budgeted revenue. He stated on the expenditure side we have expended about 26% of the general fund budget and about 27% of enterprise fund. He stated they expected to see a higher expenditures in the first quarter. He stated the Council should have received the sales tax report and he needs to make a correction. Under the column that says August 2007 operational receipts 2%, that number should be \$1,583,249.18. Under capital improvement, the 1.25%, instead of \$857,000 it should be \$989,530.74.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Mayor Purcell stated that he, Councilmember Haywood and the City Manager will be leaving on November 14th to go to the National League of Cities Conference in New Orleans.

There being no further business to consider, the meeting adjourned at 8:05 p.m. upon motion, second and roll call vote.

JOHN P. PURCELL, JR., MAYOR

ATTEST:

DENISE EZELL, DEPUTY CITY CLERK

