

footprint of the area. He cannot build without Council authority, but he can set his own rates under the current lease agreement.

Shanklin questioned if that was negotiated or did we give him that from the get-go.

Vincent state this was basically from the get-go in 1995 or 1996.

Mr. Geopfert questioned if the Council took offers from other people when the lease was up.

Vincent stated under the current lease, Mr. Waller has the option to renew. The only way the City Council can put another lessee in there is to go through a lengthy and expensive process. The facilities would have to be bought out.

Mr. Geopfert stated then basically Mr. Waller can charge what he wants. He suggested the City Council check it out because it is a racket.

Shanklin stated that Mr. Waller has a captive market out there. You either like it or leave.

Mr. Geopfert stated it is pretty bad when Mr. Waller can say or do anything he wants and they are left with no voice.

Hanna stated they could buy him out.

Shanklin stated that is an argument in limbo. Staff is never going to come and tell them so they can go to court now.

Vincent stated they have told the Council repeatedly. He stated that Mr. Jensen came before the City Council and spoke about this lease. He can get them a copy of the minutes.

Shoemate stated that the county taxes have gone up tremendously. His cabin has tripled in the last year or so.

Warren stated they need to emphasize county, we don t get any of that.

Mina Daniels, 6828 NW Willow Springs, stated she is currently the president of the Willow Springs Condominiums Association. She requested that the City of Lawton take over the maintenance of their roads and water lines. Currently they are considered private roads. When it was built in 1984 it was the only property on those roads. Currently the Willow Springs Town home Association is now conjoined with their subdivision. She stated now it is not considered a private road because it is a thoroughfare access.

Patton stated he spoke with the City Manager about this issue and he was told to get a letter from the president of the association making this request.

Vincent stated once we receive this letter we can agenda an item.

Ms. Daniels distributed a letter to the City Manager.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF NOVEMBER 6, 2007.

MOVED by Warren, SECOND by Drewry, to approve the minutes of November 6, 2007. AYE: Haywood, Warren, Shoemate, Hanna, Drewry, Jackson, Shanklin, Patton. NAY: None. MOTION CARRIED.

CONSENT AGENDA: The following items are considered to be routine by the City Council and will be enacted with one motion. Should discussion be desired on an item, that item will be removed from the Consent Agenda prior to action and considered separately.

MOVED by Haywood, SECOND by Hanna, to approve the Consent Agenda. AYE: Warren, Shoemate, Hanna, Drewry, Jackson, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for approval and consider passage of the resolution authorizing the City Attorney to file a friendly suit for the claims which are over \$400.00: Edward Deral Paulk Jr. in the amount of \$1,730.00 (**Res. 07-156**), Denise D. and Donnie R. Rowe in the reduced amount of \$6,133.26 (**Res. 07-157**) and Gregory Broomfield in the reduced amount of \$21,009.83 (**Res. 07-158**). Exhibits: Legal Opinions/Recommendations, Resolution, No. ____, Resolution No. ____ and Resolution No. ____.

2. Consider the following damage claim recommended for denial: Ron and Zandra Castanaga in the amount of \$413.84. Exhibits: Legal Opinion/Recommendation.

3. Consider authorizing the City Attorney to accept the settlement of Eight Thousand Five Hundred and No/100 Dollars (\$8,500.00) for the City's subrogation interest in the personal injury case of Fred Alexander. Exhibits: None.
4. Consider approval of the Retainer Agreement for Professional Services with Brune Engineering Company, specifically Paul Brune, Engineer, to provide professional services to the City of Lawton, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Agreement.
5. Consider adopting a resolution approving a proposed settlement and authorizing the filing of a joint journal entry to make payment in the pending lawsuit of Billie Coleman, Case No., CJ-2006-939, against the City of Lawton. Exhibits: **Resolution 07- 159**.
6. Consider approving an Outside Water Sales Contract with Dustin Lorenzen and Nichole Scruggs, and authorize the Mayor and City Clerk to execute the Contract. Exhibits: Location Map. Contract is on file in the City Clerk's Office.
7. Consider acknowledging receipt of a Tier I permit from the Oklahoma Department of Environmental Quality for the construction of 2,060 linear feet of ten (10) inch DIP, 974 linear feet of eight (8) inch DIP, 10 linear feet of six (6) inch DIP and all appurtenances and a Tier I permit for the construction of 3,774 linear feet of eight (8) inch PVC sanitary sewer line and all appurtenances to serve the Sherwood Addition Part 8, located in the NE/4 of Section 21, T-2-N, R-12-W, I.M., Comanche County, Oklahoma. Exhibits: Permits to Construct on file in the City Clerk's office.
8. Consider acknowledging receipt of a Tier I permit from the Oklahoma Department of Environmental Quality for the construction of 1,800 linear feet of eight (8) inch PVC water line and all appurtenances and a Tier I permit for the construction of 1,580 linear feet of eight (8) inch PVC sanitary sewer line, 89 linear feet of twelve (12) inch DIP sanitary sewer line and all appurtenances to serve The Enclave Part 2, located in the SW/4 of Section 23, T-2-N, R-12-W, I.M., Comanche County, Oklahoma. Exhibits: Permits to Construct on file in the City Clerk's office.
9. Consider adopting a Resolution authorizing the installation of traffic control measures along NW Euclid Ave., NW 40th St., and NE 25th St. Exhibits: Traffic Commission Minutes, Traffic Issue Requests, and **Resolution No. 07-160**.
10. Consider awarding a construction contract to Luckinbill, Inc. for the Water Storage Tank Floor Project #2007-9. Exhibits: None.
11. Consider approving Contract Amendment #6 with Burns & McDonnell Engineering Company, Inc. for additional engineering services for the Landfill Expansion (Master Plan) Project #2000-18. Exhibits: Amendment #6 to contract agreement and Letter dated November 27, 2007, from Burns & McDonnell.
12. Consider accepting the Lawton Public Library Re-Roofing Project #2004-15 as constructed by Metal Roof Contractors, Inc. and placing the Maintenance Bond into effect. Exhibits: None.
13. Consider approving the record plat for Bilbrey's East Plaza and accepting a surety bond for the sanitary sewerline. Exhibits: Plat Map. Surety Bond on file in City Clerk's Office.
14. Consider approving the construction plat for Bilbrey's East Plaza subject to conditions.
Exhibits: Plat Map.
15. Consider accepting the 10-inch waterline constructed in the 7500 block of SW Lee Boulevard to serve Bible Baptist Church and an Agreement for Maintenance. Exhibits: Location Map and Agreement for Maintenance.
16. Consider extending the contract (CL06-022) Biomonitoring Testing with Bio-Aquatic Testing of Carrollton, TX. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.
17. Consider awarding (CL08-017) Emergency Generator Installation to Johnson's Electric Service, Inc. of Lawton, OK. Exhibits: Department recommendation, abstract of bids.
18. Consider approval of payroll for the period of November 26 December 10, 2007.

BUSINESS ITEMS:

19. Hold a public hearing and consider a resolution amending the 2025 Land Use Plan from Residential/Low Density to Commercial and an ordinance changing the zoning from R-1 Single-Family Dwelling District) to R-2 (Two-Family Dwelling District) and C-1 (Local Commercial District) zoning classification located at approximately

901 NW 40th Street. Exhibits: Resolution No. 07-___, Ordinance No. 07-___, Location Map, Site Plans, Applications and CPC Minutes.

Richard Rogalski, Planning Director, stated the City Council actually looked at this property last Council meeting when there was a request to vacate or close a road. The request is for 3.91 acres of R-2 zoning and .72 acre of C-1 zoning. The proposed uses are townhouses in the R-2 zoning and professional office in the C-1 zoning. The applicant is Lawton Baptist Tabernacle Church, and the proposed developers are Pam Marion and Barry Ezerski.

The zoning of the surrounding area is R-4 (High Density Apartment District) and C-4 (Tourist Commercial District) to the north, R-1 to the south and west, and P-F (Public Facilities) to the east. The land use of the surrounding area is Gardentown Nursery and vacant to the north, single-family residential to the south and west, and churches to the east.

The 2025 Land Use Plan designates this property as Residential/Low Density. The proposed use of townhouses will require approval of a use permitted on review; however, the developers cannot submit an application for a use permitted on review until the existing right-of-way of NW 40th Street is closed and the plat of Heinz Addition, Part 8 is vacated. Heinz Addition, Part 8, is a four-lot subdivision that was never constructed. The developer proposes to submit a use permitted on review application with a binding site plan and a new plat after the existing plat is vacated. The townhouse development will be gated. The proposed use of the C-1 tract is professional office.

On November 8, 2007, the City Planning Commission held a public hearing and reviewed this request. During the public hearing two persons spoke in favor of the request, and two residents expressed concerns regarding drainage in this area. One of the residents stated after a neighborhood meeting, the consensus of the neighbors is R-2 would be acceptable but there was concern that approval of R-2 zoning may make it easier for a future request to R-4. The CPC, by a vote of 7 0 1, recommended approval of the rezoning. The CPC also recommended that the gate on the south end of the townhouse development remain closed to all but emergency vehicles.

Notice of public hearing was mailed on November 20, 2007 to 45 property owners within 300 feet of the requested area, and proper notice was published in *The Lawton Constitution* on November 25, 2007.

Shanklin questioned where Westwood Elementary was from this location.

Warren stated about two miles north.

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

MOVED by Drewry, SECOND by Warren, to adopt **Resolution 07-161** and **Ordinance 07-66**, waive the reading of the ordinance, read the title only. AYE: Shoemate, Hanna, Drewry, Jackson, Shanklin, Patton, Haywood, Warren. NAY: None. MOTION CARRIED.

(Title read by City Attorney) Ordinance 07-66

An ordinance changing the zoning classification from the existing classification of R-1 (Single-Family Dwelling District) to R-2 (Two-Family Dwelling District) and C-1 (Local Commercial District) zoning classification on the tracts of land located at 901 NW 40th which are hereinafter more particularly described in sections one (1) and two (2) hereof; authorizing changes to be made upon the official zoning map in accordance with this ordinance.

20. Hold a public hearing and consider an ordinance changing the zoning from R-1 (Single-Family Dwelling District) to P-F (Public Facilities District) zoning classification located at 102 114 NW 31st Street. Exhibits: Ordinance No. 07-___, Location Map, Site Plan, Application and CPC Minutes.

Rogalski stated this request is for the east 71 feet of Lots 7 13, Block 16, Tomlinson Addition, Part 2, which will be part of the Cancer Center of Southwest Oklahoma. The applicants are the Comanche County Hospital Authority and Michael C. Mayhall, et al.

The zoning of the surrounding area is P-F to the north and west, C-1 (Local Commercial District) to the south, and R-1 to the east. The land use of the surrounding area is The Heart Center to the north, medical offices and parking to the south, single-family residential to the east, and Comanche County Memorial Hospital to the west. The 2025 Land Use Plan designates these lots as Public. In a rezoning approved in 1993, the east 71 feet of Lots 7- 13 remained R-1 as a buffer between the Hospital and the single-family residential with a walking trail and landscaping. This area is proposed as a drive and parking for the proposed Cancer Center of Southwest Oklahoma.

On November 8, 2007, the City Planning Commission held a public hearing and reviewed this request. During the public hearing Mr. Mackey, attorney for the Authority, spoke in favor of the request and presented a letter from a

property owner within 300 feet stating he was in favor of the request. One resident expressed concerns regarding drainage problems in this area. The CPC, by a vote of 8 0, recommended approval of the rezoning. The CPC also recommended the City Council address the drainage issues.

Notice of public hearing was mailed to 26 property owners within 300 feet of the requested area on November 20, 2007, and proper notice was published in *The Lawton Constitution* on November 25, 2007.

PUBLIC HEARING OPENED.

John Mackey, attorney for the Comanche County Hospital Authority, stated there are officials from the hospital in attendance to answer any questions from the City Council. He stated in 1993 the west 49 feet of all of those lots were rezoned to Public Facilities District. In 2003 when the cardiology building was built on the intersection of 31st and Arlington, the east 71 feet of those lots was rezoned PF. Because they weren't changing any use or doing anything with those on the south end, they did not change that from R-1. He stated they will lose some parking spaces as a result of this construction and they are already crowded. There will be no other curb cuts or entrances or exits onto 31st Street. People will have to get out on the hospital campus to get to this facility. They do need to change the zoning to allow parking and driveways on the east side. He stated there will be screening. They will recognize the drainage requirements. They cannot make the drainage any worse, they will address that issue at the time they apply for building permits because the drainage will have to stay the same. There will be more grass and more drainage area after this plan is implemented. They do understand they will have to have retention and detention ponds.

Shoemate questioned if this will cause a traffic tie up on 31st Street. He stated most of the driveways are one car on 31st Street.

Mr. Mackey stated there are traffic problems on 31st Street, but there will be fewer people parking on that side. Employees will be asked to park on the west side. There should not be any additional traffic because there will no additional curb cuts or accesses.

PUBLIC HEARING CLOSED.

MOVED by Drewry, SECOND by Haywood, to adopt **Ordinance 07-67**, waive the reading of the ordinance, read the title only. AYE: Hanna, Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 07-67

An ordinance changing the zoning classification from the existing classification of R-1 (Single-Family Dwelling District) to P-F (Public Facilities District) zoning classification on the tract of land located at 102 114 NW 31st Street, 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.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Shoemate suggested everyone go out west of Geronimo to see the light display. He would like to consider hiring this man to oversee our display in the park. He stated it is a fantastic show.

Shanklin stated he was watching Lawton Cablevision on Thursday when they rebroadcast the November 27th Council meeting. He stated there was no sound and when it came to the impact fee discussion it changed stations. He stated he is not stupid enough to think this was a coincidence. He stated this really bothered him. He wanted to see the banter back and forth. He admires those that were able to control that news media.

Vincent stated the water conference in Oklahoma City has been postponed because of the ice storm. It will be rescheduled to late January or February.

Shanklin stated he would like to go.

There being no further business to consider, the meeting adjourned at 6:34 p.m. upon motion, second and roll call vote.

KEITH JACKSON, MAYOR PRO TEM

ATTEST:

TRACI HUSHBECK, CITY CLERK