



APRIL 10 AND THE SPECIAL MEETING OF APRIL 19, 2007.

MOVED by Warren, SECOND by Drewry, to approve the minutes March 27, April 10 and April 19, 2007. AYE: Hanna, Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate. 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.

Mayor Purcell stated item #2 needs to be considered separately.

MOVED by Shanklin, SECOND by Warren, to approve the Consent Agenda with the exception of item #2. AYE: Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Hanna. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for approval and consider passage of resolutions authorizing the City Attorney to file a friendly suit for the claims which are over \$400.00: Robert and Tiffany Bowen in the reduced amount of \$8,092.68 (**Res. 07-77**), Jeff Garcia in the reduced amount of \$269.58, AEP in the amount of \$1,593.00 (**Res. 07-78**) and Randy and Lisa Keith in the reduced amount of \$1,900.64 (**Res. 07-79**). Exhibits: Legal Opinions/Recommendations. Resolution No. \_\_\_, Resolution No. \_\_\_, and Resolution No. \_\_\_.

2. Consider the following damage claims recommended for denial: Mayo and Edna Elliott in the amount of \$1,200.00, AEP in the amount of \$849.00, Edna Solitario, MD. In the amount of \$2,827.95 and Derrick Dawson in the amount of \$844.00. Exhibits: Legal Opinions/Recommendations.

Vincent stated Dr. Solitario has contacted an attorney and requested that this item be struck so that he may amend the claim.

MOVED by Warren SECOND by Hanna, to strike the claim of Edna Solitario, MD. AYE: Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Hanna, Drewry. NAY: None. MOTION CARRIED.

Mabel Dawson, mother of Derrick Dawson, stated that her son had driven in from Las Vegas to see his brother who was home from Iraq. He stated her son and two friends had been drinking and were asleep in a parked car. The police took the rental car but did not arrest Mr. Dawson. They could not get the car out for two days. It cost them \$214 to get the car out. She stated the police told him the car was not impounded. Mr. Dawson had to pay extra rental on the car and was unable to go to work and that is what he is claiming.

Shanklin questioned if Ms. Dawson felt that the police officer was being benevolent under the circumstances. If Mr. Dawson was intoxicated, the police could have put him in jail and cost him a lot more money. He stated he would sympathize with the officer, who was trying to be a nice guy.

Ms. Dawson questioned why they impounded the car.

Warren stated he would agree with Mr. Shanklin. There were three people who were unable to operate the vehicle because they were intoxicated. Once we take those people out of that vehicle, the vehicle becomes the City of Lawton's problem. We have a policy that if that situation arises, we impound the vehicle.

Ms. Dawson stated that her daughter came and picked up Mr. Dawson. She questioned why no one at the police station knew that the car was impounded.

Vincent stated under state statute the wrecker company has to notify the owner of the vehicle, which in this case is the rental company. The police officer and Mr. Dawson tried to contact someone to come and drive the car and no one showed up.

Ms. Dawson stated her daughter was there.

Vincent stated she was at the police station.

Ms. Dawson stated she came where the car was.

Vincent stated not according to the police report.

MOVED by Warren SECOND by Hanna, to deny the claim of Derrick Dawson in the amount of \$844.00. AYE: Shanklin, Patton, Warren, Shoemate, Hanna, Drewry, Jackson. NAY: Haywood. MOTION CARRIED.

MOVED by Warren SECOND by Haywood, to deny the claims of Mayo and Edna Elliott in the amount of \$1,200.00 and AEP in the amount of \$849.00. AYE: Patton, Haywood, Warren, Shoemate, Hanna, Drewry, Jackson, Shanklin. NAY: None.

MOTION CARRIED

3. Consider approval of renewing the Retainer Agreement for Professional Services with Granville D. Long, to provide professional investigative services to the City of Lawton, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Agreement.
4. Consider renewing the professional services agreement with Robert M. Jernigan as a representative on telecommunication; James C. Ferguson of Walker, Ferguson and Ferguson for the defense of Workers' Compensation claims; Tony G. Puckett of McAfee & Taft on labor-related issues; Gary M. Bush of Fagin, Brown, Bush, Tinney & Kiser for financial related representative services; and authorize the Mayor and City Clerk to execute the Agreements. Exhibits: Retainer Agreements for Professional & Legal Services on file in the City Clerks Office.
5. Consider approval of the Retainer Agreement for Legal Services between the City of Lawton and Neil West and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Retainer Agreement for Professional & Legal Services on file in City Clerk s Office.
6. Consider approving the appointment of Nathan M. Johnson and Jon Oscar Lagerberg as Alternate Municipal Judges, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Nathan Johnson s Agreement for Judicial Services, Jon Oscar Lagerberg s Agreement for Judicial Services.
7. Consider approval of renewing the Retainer Agreement for Professional Services with the Mackey Law Firm, to provide professional property research services to the City of Lawton, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Agreement.
8. Consider adopting a resolution approving the settlement by a joint petition and making payment in the pending workers' compensation claim of Donald G. McGee. Exhibits: **Resolution No. 07-80.**
9. Consider adopting a resolution authorizing the City Attorney to initiate a foreign judgment in favor of Larry Burnison in the amount of \$15,506.58 of the total \$42,108.00 award and ratifying the actions of the City Attorney and the City Manager in directing our third party administrator to make weekly payments on the balance of the judgment in the Workers' Compensation case of Larry Burnison in the Workers' Compensation Court, Case No. 2006-03962 K. Exhibits: **Resolution No. 07-81.**
10. Consider approving Outside Water Sales Contracts with Larry Ballou and Randall and Inna Caldwell, and authorize the Mayor and City Clerk to execute the Contracts. Exhibits: Location Maps. Contracts are on file in the City Clerk s office.
11. Consider approving outstanding storage charges in the amount of \$225.00 to be paid to State Farm Insurance in order to release the lien for the Hoffman vehicle to be auctioned by Sapulpa Auto Pool. Exhibits: Pamplin Invoice.
12. Consider accepting donation of six (6) Remington 870 Express Magnum Shotguns from Great Plains Technology Center. Exhibits: A letter from GPTC requesting the Lawton Police Department accept said shotguns upon approval of the City Council.
13. Acknowledge receipt of election returns of December 12, 2006, February 13 and April 3, 2007. Exhibits: Official Certification of Votes from Comanche County Election Board.
14. Consider a request from the United States Department of the Interior, Bureau of Indian Affairs, to provide comment regarding an application on acquisition of property into tribal trust land, and authorize the Mayor to comment and respond to the Bureau of Indian Affairs. Exhibits: Letter from Bureau of Indian Affairs dated April 24, 2007 and map of property location.
15. Consider a request from the United States Department of the Interior, Bureau of Indian Affairs, to provide comment regarding an application on acquisition of property into tribal trust land, and authorize the Mayor to comment and respond to the Bureau of Indian Affairs. Exhibits: Letter from Bureau of Indian Affairs dated April 24, 2007 and map of property location.
16. Consider adopting Street Light Resolution No. 452 to authorize the installation/removal of street lights at the location listed in the Resolution. Exhibits: Street Light Resolution No. 452.
17. Consider awarding a construction contract to Landmark Structures I, L.P. for the Water Infrastructure Improvement Phase 2 (Tower) Project #2006-9. Exhibits: None.

18. Consider approval of Change Order Number 1 for the Southeast Water Treatment Plant Project with Archer Western Contractors LTD. Exhibits: Change Order Number 1 (On file in the Public Works Administration office).
19. Consider approving agreements for refuse disposal with the following entities, and authorize the Mayor and City Clerk to execute the Agreements: Town of Indianahoma, Multiple Community Services Authority and Town of Temple. Exhibits: Agreements on file with the City Clerk.
20. Consider approving agreements for euthanization services with the following entities, and authorize the Mayor and City Clerk to execute the Agreements: City of Grandfield and Town of Medicine Park. Exhibits: Agreements on file with the City Clerk.
21. Consider endorsing the Federal Fiscal Year (FFY) 2008-2011 Transportation Improvement Program (TIP) for the Lawton Metropolitan Area Transportation Study area. Exhibits: FFY 2008-2011 TIP.
22. Consider endorsing the Fiscal Year (FY) 2007-2008 Unified Planning Work Program (UPWP) for the Lawton Metropolitan Transportation Planning Process. Exhibits: FY 2007-2008 UPWP on File in the Office of the City Clerk.
23. Consider approving the Memorandum of Understanding between the City of Lawton and the Lawton Metropolitan Planning Organization (LMPO) for metropolitan transportation planning for Fiscal Year 2007-2008 for the Lawton Metropolitan Area and authorize the Mayor to execute. Exhibits: MOU on File in the Office of the City Clerk.
24. Consider awarding (CL07-043) Digital Voice Recorder to Magnasync Corporation of Los Angeles, CA. Exhibits: Department recommendation, abstract of bids.
25. Consider awarding (CL07-044) Bulldozer & Hydraulic Excavator to Kirby-Smith Machinery, Inc., of Oklahoma City, OK, for the Bulldozer, rejecting all bids for the Hydraulic Excavator and rebidding that portion of the contract. Exhibits: Department recommendation, abstract of bids.
26. Consider awarding (CL07-047) Manhole Rings and Covers to Water Products of Oklahoma, Inc., of Owasso, OK. Exhibits: Department recommendation, abstract of bids.
27. Consider awarding (CL07-048) Digester Feed Pumps to Bertrem Products, Inc., of Tulsa, OK. Exhibits: Department recommendation, abstract of bids.
28. Consider extending the contract (CL06-046) Laboratory Services of Toxic Pollutants with Accurate Environmental Labs of Stillwater, OK. Exhibits: Department Recommendation, Price Bid Sheet, Contract Extension Form.
29. Consider awarding (CL07-049) Sewer Pipe as follows: Group 1: A, B, C to Water Products of Oklahoma, Inc., of Owasso, OK, Group 2: A, B, C to ISCO Industries of Jenks, OK, Group 3: A & B to Ferguson Waterworks of Oklahoma City, OK, Group 3: C, D, E, F to Oklahoma Contractor s Supply of Oklahoma City, OK. Exhibits: Department recommendation, abstract of bids.
30. Consider awarding (CL07-050) Mowing and Litter Contract to Teen Challenge of Oklahoma of Cache, OK. Exhibits: Department recommendation, abstract of bids.
31. Consider approving appointments to boards and commissions. Exhibits: None
32. Consider approval of payroll for the period of May 21 June 3, 2007.

#### OLD BUSINESS ITEMS:

33. Hold public hearings and adopt resolution declaring the structure at 1804 S.W. Garfield 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: None.

Tony Griffith, Neighborhood Services Supervisor, requested that this item be struck from the agenda. Under Section 14-1-106, Lawton City Code, this structure should not have been there in the first place.

It does not have a permit and it is not authorized within the city limits. Under this code, Neighborhood Services would pursue having this structure removed without having it declared dilapidated. If the structure is declared dilapidated, the owner would then have the right to remodel the structure, which is prohibited.

MOVED by Warren SECOND by Hanna, to strike this item. AYE: Haywood, Warren, Shoemate, Hanna, Drewry, Jackson, Shanklin, Patton. NAY: None. MOTION CARRIED

#### BUSINESS ITEMS:

34. Hold a public hearing and consider an ordinance closing a portion of the alley adjacent to Lot 6, Block 15, Airport Addition, also known as 302 SW Lee Boulevard. Exhibits: Ordinance No. 07-\_\_\_, Application, Location Map and Survey.

Richard Rogalski, Planning Director, stated an Application for Closing of Public Way or Easement has been submitted by Madeline Sue Whatley to close a portion of the alley adjacent to Lot 6, Block 15, Airport Addition, also known as 302 SW Lee Boulevard. The existing structure, which is a vacant commercial building, encroaches 2.5 feet into the alley. The applicant desires to sell the building and therefore needs to resolve the encroachment situation. Notice of public hearing was mailed on May 11, 2007 and published in *The Lawton Constitution* on May 27, 2007. No calls or letters against the request have been received. All utilities have responded with no objection to the closing. If the Council approves the ordinance closing the north 2.5 feet of the alley, the applicant intends to petition district court to vacate this portion of the alley.

Shanklin stated he went out there and measured from the line of the telephone poles going east and west. He stated ARKLA Gas pipelines were over 22 feet, so some of those utilities were not in the 20 foot width of that alley. He stated one of them is wrong.

Rogalski stated the title company has said that this building is not on the property it is in the alley. This was done by a registered surveyor and he stated he would have to rely on that survey. We did not tell them they were in the alley, they told us they were in the alley.

Shanklin questioned if it made any sense at all that they would be further than 20 feet apart. They are on someone's private property.

Rogalski stated this area was developed a very long time ago and he cannot make a statement about that. It is the applicant that is coming to us saying he is in the alley.

Shanklin questioned if what he said was true, would that have any bearing on this closing.

Rogalski stated that if this alley was not located properly on this survey, it would have a bearing because we would not need to vacate or we may need to vacate more. If the issue is that the utilities are located incorrectly, by now they have a right and would have no bearing on this request. On paper, that building is 2 feet into our alley and this needs to be released on paper in order for that title to clear.

Shanklin questioned if anyone from the City went out and measured.

Rogalski stated he did not measure. It was done by a surveyor. Just going out and looking you cannot see the property line.

#### PUBLIC HEARING OPENED.

Monty Hightower, Attorney for the applicant, stated the applicant is relying on the survey done by Landmark Engineering. He stated this building has been there 38 years. He stated he went out with an ARKLA employee and was shown the location of the line.

Shanklin stated the gas line and power line is further than 20 feet apart.

Mr. Hightower stated the task at hand was to look at where the utilities were from the building.

Haywood questioned if the utilities were to the west.

Mr. Hightower stated they are actually to the south.

Hanna questioned why the property was not surveyed when it was first plotted.

Mr. Hightower stated they are 38 years down the road.

Hanna stated someone is supposed to check the work. He questioned if it was the building inspectors.

Mitchell stated the builder is responsible. The inspectors would just have a general idea of where the easements and property lines are located, but the developer is responsible for knowing where those easements are.

Warren stated one of two things has to happen, you either have to tear the building down or you have to vacate the easement. The bank is not going to loan money on a building that is built in the easement.

Shanklin questioned why they were closing the alley.

Vincent stated they are closing a small portion of the alley to get it around the building so that there is a clear title. We are not obstructing the alley so that it becomes un navigable.

Ron Miller, 307 and 309 Washington, stated his property backs up against the property in question. He stated he was under the impression that the alley was going to be totally closed which would cut his property off completely. He would be opposed to the alley closing.

Drewry stated the alley will only be closed 2 feet around the building.

PUBLIC HEARING CLOSED.

MOVED by Warren, SECOND by Haywood, to adopt **Ordinance 07-36**, waive the reading of the ordinance, read the title only. AYE: Warren, Shoemate, Hanna, Drewry, Jackson, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

(Title read by City Attorney) Ordinance 07-36

An ordinance closing a portion of an alley adjacent to Lot 6, Block 15, Airport Addition, addressed as 302 SW Lee Boulevard, more particularly described in section one of the ordinance.

35. Hold a public hearing and consider an ordinance closing a portion of a public utility easement on the north side of Lot 2, Block 32, Wyatt Acres Addition, Part 14, also known as 612 NW Micklegate Boulevard. Exhibits: Ordinance No. 07-\_\_, Application, Location Map, Survey.

Rogalski stated an application to close a public utility easement located at 612 NW Micklegate Boulevard has been submitted by Wyatt Development Inc. The company owns Lot 2, Block 32, Wyatt Acres Addition, Part 14. There is a 12.5-foot public utility easement located on the north side of Lot 2. A home was constructed on approximately 3.5 feet of this utility easement. The applicants are requesting the portion of the easement under the house be closed to clear the title so the property can be sold. Notice of public hearing was mailed on May 11, 2007, and published in *The Lawton Constitution* on May 27, 2007. No objections to the closure have been received. If the Council approves an ordinance closing the requested area, the applicants will petition District Court to have 3.5 feet of the existing 12.5-foot easement vacated. There is an additional encroachment of the heating/air conditioning equipment into this easement. The City Attorney has recommended that a revocable permit be issued for the heating/air conditioning equipment. A separate agenda item has been prepared for the revocable permit.

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

MOVED by Patton, SECOND by Haywood, to adopt **Ordinance 07-37**, 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 07-37

An ordinance closing a portion of a utility easement located on lot 2, block 32, Wyatt Acres Addition, Part 14 and addressed as 612 NW Micklegate Boulevard, more particularly described in section one of the ordinance.

36. Consider issuing a revocable permit for the placement of heating/air conditioning equipment in the utility easement located on the north side of Lot 2, Block 32, Wyatt Acres Addition, Part 14, also known as 612 NW Micklegate Boulevard. Exhibits: Revocable Permit with Map of Permitted Area.

Rogalski stated this permit is to grant a revocable permit for the heating and air conditioning unit on that very same building. He stated as these projects are being built, the ground is all torn up and it is really hard to determine where the lot lines are and the easements. The reliance is upon the surveyor. He stated to help this issue, staff could require the developer to stake the easements and put flags up so that there is some indication of where the easement is.

Jackson stated they could also make these people purchase the property that they encroached upon. He stated the City has had to pay a lot with taxpayer money when we have had to purchase right of way or easement.

Rogalski stated the real issue is to build them in the right spot. It would be helpful if they did flag those easements because the utility companies are also trying to get out there.

Hanna suggested Rogalski place an item on the next agenda. He would like to see the contractor be responsible for the job he is getting paid to do.

MOVED by Patton, SECOND by Warren, to approve the issuance of a revocable permit for the placement of heating/air conditioning equipment in the utility easement located on the north side of Lot 2, Block 32, Wyatt Acres Addition, Part 14, also known as 612 NW Micklegate Boulevard. AYE: Hanna, Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate. NAY: None. MOTION CARRIED.

37. Consider adopting a resolution declaring that Ninety Percent (90%) of the budgeted and appropriated revenues for fiscal year 2006-2007 have been collected for the General Fund. Exhibits: Resolution 07-\_\_ and Revenue reports dated May 31, 2007.

Rick Endicott, Finance Director, stated by Oklahoma statute we must declare, by resolution, that we have collected 90% of our revenues. He stated we have collected 93.95%.

MOVED by Drewry SECOND by Shoemate, to approve **Resolution 07-82** declaring that Ninety Percent (90%) of the budgeted and appropriated revenues for fiscal year 2006-2007 have been collected for the General Fund.

Jackson stated he had a retail business in town tell him that they have already changed their sales tax rate. He thought that the rate changed on June 30<sup>th</sup>.

Endicott stated the rate changed on June 1<sup>st</sup>.

Warren stated there are a lot of people still charging the old tax rate.

Endicott stated they received some calls and they contacted the Oklahoma Tax Commission and confirmed that June 1<sup>st</sup> was the effective date.

Jackson questioned how to get notice out. Is it the City's responsibility?

Endicott stated it is the responsibility of the Oklahoma Tax Commission and Comanche County.

VOTE ON MOTION: AYE: Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Hanna. NAY: None. MOTION CARRIED.

38. Consider reviewing and approving the City of Lawton Fiscal Year 2007-2008 budget and approving a resolution adopting the FY 2007-2008 City of Lawton budget. Exhibits: List of adjustments and changes and Resolution No. 07 \_\_.

Mitchell stated the preliminary budget was presented to the City Council on May 8<sup>th</sup> and a series of workshops have been held. The total operating expenditures are just over \$75,000,000. He stated there is a difference between the resolution that was published in the packet and the wish list that was distributed. The wish list is basically a general fund list and there is a projected carryover of \$334,582. The resolution that adopts the budget is for all funds, the enterprise fund, general fund, and all the dedicated funds. In Section 1 of the resolution it states a total resource available in the amount of \$120,644,926 and total appropriations of \$120,242,807. The difference between those two numbers is just over \$400,000. The difference is that they are looking at all funds in the resolution versus the handouts which is just general fund.

MOVED by Warren SECOND by Drewry, to approve **Resolution 07-83** approving the City of Lawton Fiscal Year 2007-2008 budget.

Shanklin stated he would like to make a substitute motion. He stated that Tommy Harrell is a police officer, who in his benevolency, allows us to use ten retired police officers for 24 hours a week. These police officers really do a lot of good for our citizens. He stated he did not mention the police department in the letter to the editor that he

wrote. What turned him off is that we hired six new fire officers and they all had to have training and they all lived outside the city limits. He stated we had one training officer in 2003 and the budget was \$66,000. Five years later we have two training officers and the budget is \$166,000. He does not understand. He stated there was a water revenue shortage in 1990, COL McAffry came in sometime in December and we were \$600,000 down and we put a \$4 surcharge on the water bill for five months to recoup that \$600,000. We are carrying over \$330,000 and the increase in gas, catastrophic medical, any of those things can put us back where we were in 1990. He would bet our June revenues are down for water. He stated we need to live with what we got. The city of Lawton has 93,000 people and we generate a total of \$27 million or roughly \$18 or \$19 million on the two cent sales tax. Norman generates \$42.6 million. Ardmore has 24,000 people and generates \$13.5 million and these figures are from 2004.

He stated with all that extra money we could clean up our city. Edmond generates \$31 million and they are 68,000. He questioned when it will stop and what will we do about 63,000 people trying to fund a city of 90,000.

He stated he has talked with a couple of colonels and they understand the problem and they had some ideas of things that could be done. He would like to make the motion that we not give any pay raises for six months and after the six months we see if the sales tax is up. He is not against the raises, but when will it stop. He stated our water is as high as anyone in the state of Oklahoma.

SUBSTITUTE MOTION by Shanklin, to approve the budget but leave the payroll as it is for 2006-2007.

Hanna questioned if this can be done legally without getting us into trouble.

Vincent stated there is one year left on the contract with fire unless the City Council determines there is insufficient funds in the budget in which case we will have to notify the fire department that we will reopen negotiations on all funded items. The Council can direct the negotiating teams not to negotiate pay raises.

Drewry questioned if we would be breaking the contract with fire.

Vincent stated right now the fire item is not on the agenda, the only thing on the agenda is the budget and Councilmember Shanklin's motion is appropriate. There would have to be an item brought back to Council to authorize notification to the fire union that the pay raise that has already been negotiated and signed off on is being rescinded and they will have to go back into negotiations.

Shanklin stated we are not trying to break these people, all he wants to do is survive that \$330,000 which is not enough money.

Drewry stated she understands where Councilmember Shanklin is coming from with regards to the carryover, but from what she understands Councilmember Shanklin and former Councilmember Bass negotiated the contract.

Shanklin stated it is contingent on having the funds.

Drewry questioned if the contract said that.

Mitchell stated there is a provision in the contract that if the City Council feels there are not adequate funds, they can reopen negotiations. If the City Council votes for this motion, they are essentially breaking the contract, because there is no way to do anything otherwise. If they vote on the motion then they are essentially saying that when the item comes back at the next council meeting they will vote to reopen.

Shanklin stated this is not popular but when six months goes by, they can get their raise. Does the Council want to wait and in three and four months have to raise a \$10 surcharge on the water bill. How popular will they be then.

Drewry stated she does not want to do that but she also wants them to be very careful about going back on a contract that is signed when they have other situations coming up that they have to look at.

Warren stated there are a lot of issues here. One is that they entered into a contract with the fire department in good faith. He understands what Councilmember Shanklin is concerned about, but at the end of six months everything will not necessarily be all rosy. In eight months there could be a catastrophic illness or some other problem. They could be in the same shape in six months and are they going to say they can't give raises for another six months? If they froze step increases and cost of living increases it will still cost more every year. He does not think that not giving raises is the solution. Everyone wants everything they have right now, but they want it at the same price they paid last year and that is not going to happen. He has an issue with making a contract and then breaking it when they have sat here with the Finance Director and basically said that the money was there. Now they are going to try and tell an arbitrator that it is not. That will not fly. He does not have a problem with addressing raises on future contracts and future budgets but it is too late now.

Shanklin stated he would caution the Council members on their fiduciary responsibility. He stated October is not that far off and they are not going to pass that sales tax. He hears that from too many people. If they show some



responsibility, maybe in six months they can do it. Somewhere down the line they have to call a halt to spending all of their money.

Warren stated a CIP election and the city budget are two completely different entities. If the citizens decide they do not want to approve another CIP, that is their right, but he hopes that they do that with the full knowledge that it doesn't change the city budget.

Shanklin stated he just made the motion, he feels good about it and he knows he tried. He has given raises to everybody for years. There comes a time when they say they have to tread water and see what happens.

Mayor Purcell questioned if they notify the fire department that we don't have the money and therefore they want to reopen negotiations. He stated the City Attorney has negotiated many contracts around the state. He stated once they get through with negotiations, it will not be less, it will be more. He asked the City Attorney if this was a true statement.

Vincent stated historically that is proven to be true.

Mayor Purcell questioned why they would go through all of that this year. They will have an opportunity next year if they want to freeze wages when they are not violating contracts. He stated the City Council needs to think about what that means. Things are said that are absolutely not true and they scare people. He feels that is wrong and if they can't be honest with the public and prove your argument with true facts, making ridiculous comments just adds to the confusion and causes problems.

Haywood stated he believes in raises. He has a problem with raising the water bill. He questioned how much it will go up.

Mayor Purcell stated it will go from \$1.60 to \$2.08, depending on the number of gallons of water that will be used.

Mitchell stated it would be approximately a 3.6% raise in the utility bill.

Haywood stated his constituents have problems with raises in the water bill. It is not about the raises. They definitely want the streets fixed. He does not know if the people in his ward can handle an increase in the water bill.

Endicott stated the base rate went up 3.5% plus 50 cents. The per thousand rate went up 3.5% across the board. When you look at the base rate, it might be 6.5% or somewhere in that neighborhood. When they get into all the different rates like commercial, they will all go up 3.5%. They did not just decide the 3.5%, it came from several years ago when the City Council made a decision that it was prudent to increase the water rate at some cost of living rate each year unless there was justification not to do so. Basically they have gone two out of three years doing that.

Mitchell stated the one year they did not raise rates, they captured some one time revenues by renegotiating contracts with Fort Sill and others. They have about \$650,000 in one time revenues so they did not recommend an adjustment that year.

#### **SUBSTITUTE MOTION BY COUNCILMEMBER SHANKLIN FAILED DUE TO A LACK OF A SECOND.**

Mayor Purcell stated they are back on the original motion which is to approve the resolution.

Jackson stated that he has been up here preaching over and over that joe taxpayer out there is sick and tired of constantly being asked to dip into their pockets. A lot of citizens in this town do not get pay increases every year. This budget that they have worked on for the past two months includes the pay increases for employees and he believes if they reopen negotiations on contracts that they would be entering a hornets' nest. He feels they owe it to the employees of the City of Lawton to continue with this contract and give these raises. They are in the budget and they have shown that they have found the money. He stated the carryover is low and that is not a good thing, but he feels they need to discuss that situation with negotiations with next year's contracts. For right now they will lose in arbitration if they go in that direction with negotiations with the unions. There are good employees in the City of Lawton and they owe them that raise whether they like it or not.

Patton stated he does agree with Councilmember Shanklin that at some point they need to do something, but timing is everything. They have always tried to treat everybody equal and if they were going to do something for one group they would make sure they would do it for everybody. He feels that should hold true in this situation. The unions need to be aware that expenditures cannot raise by 7% with revenues only rising by 4%. At some point something has to give and they need to bear in mind that when they begin these negotiations.

Shoemate stated he knows that their constituents feel that they should not approve this, but the police and fire

work long hard hours and place their lives on the line every day. He knows for a fact that they have saved his life twice. When that contract comes back up it will be hard for those sitting here to approve any substantial pay raise for those on the next contract and they need to understand that.

Jackson stated before the budget hearings even started there was a heavy emphasis on public safety and the citizens of Lawton. Gang violence is a problem and every one of them asked the City Manager to include four additional police officers in the budget and the City Council approved the addition of the three captains in the fire department. The City Council addressed a lot of public safety issues in this budget and he feels the public asked for help with a lot of this gang violence problem and they have answered that call. This is a good budget that is public safety heavy.

Hanna reminded the City Council of who put them there and who can take them out. He does understand that they do need these things but his constituents have talked with him and they are the ones who put him here. They need to remember what they would want.

Jackson stated he does not think they want them to start laying off employees.

Mayor Purcell stated he would like to address the issue of general employees. When someone is out there working for a civilian contractor and digging a hole and it is cold or rainy, they stop and go home. Our general employees are out in the rain, snow and water digging that hole. There is a big difference and they all have to understand that.

Shanklin stated that was not smoke and mirrors or a threat when they had to raise fees in 1990. That was not a scare tactic.

VOTE ON ORIGINAL MOTION: AYE: Patton, Warren, Shoemate, Drewry, Jackson. NAY: Shanklin, Haywood, Hanna. MOTION CARRIED.

39. Consider approving a resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 2005, to increase the fee for City provided utilities and establishing an effective date. Exhibits: Resolution No. 07\_\_.

Endicott stated he needs to make one amendment. On page 3 of the fees and charges in section 22-114 they need to strike the work negotiated.

MOVED by Warren, SECOND by Patton, to adopt **Resolution 07-84** as amended. AYE: Patton, Haywood, Warren, Shoemate, Hanna, Drewry, Jackson, Shanklin. NAY: None. MOTION CARRIED.

Mayor Purcell stated they need to strike #40.

Vincent stated item #40 was requested by Councilmember Shanklin but there is a glitch and it will be on the agenda for the next meeting.

40. Consider an ordinance amending Section 15-5-503, Article 15-5, Chapter 15, Lawton City Code, 2005, by removing the exceptions related to lots zoned R1 or R2, providing for severability, and declaring an emergency. Exhibits: Ordinance 2007-\_\_.

41. Consider adopting an ordinance amending Section 22-2-3-232, Division 22-2-3, Article 22-2, Chapter 22, Lawton City Code, 2005 by clarifying the guidelines for purchasing water outside City limits, providing for severability, and declaring an emergency and consider approving a resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 2005, to include a \$75.00 application fee for the sale of water outside of City limits, and establish an effective date. Exhibits: Ordinance No. 07-\_\_; Resolution 2007-\_\_.

Vincent stated since the moratorium has automatically lifted staff has found a few technical problems with who was responsible to bring their property up to city code, when they are responsible if they got an outside water contract or had the contract amended. This ordinance clarifies those issues. As to the resolution, the old fee for the outside water sales was \$50, it got dropped somehow last year through a technical error. At the same time staff has started filing the water contracts with the County Clerk at a cost of \$31. Staff wants to raise the fee up to \$75 which will cover the cost of filing plus the old fee. He stated his department will eat the remaining \$6.

Shanklin questioned what we were doing different.

Vincent stated if an individual or developer gets a brand new outside water sales contract buying City of Lawton water, they have to meet city code requirements. For example, the developer has to build the streets, put in his sewer lines or underground storm drainage, and do all of this to city code. If they are building an individual house, they have to come in and get a building permit and our inspectors are going out and doing inspections.

Warren stated if he went out and bought all of this land outside of town to develop, he would have to build the streets, sewers, etc. to city specs. When someone comes in to build a house in his development, would he have to follow the city code.

Vincent stated the person building the home would have to come in and get a permit. It applies to any structure that is built under a new contract or an amended old contract. He stated they have been doing this for about three years, it is just there has been confusion on when it applies and when it does not apply.

Patton stated he is not crazy about eating the \$6.

Warren suggested they raise the fee to \$100.

Jackson questioned if this ordinance will cause any problem with the recently negotiated agreements with outside water sales.

Vincent stated this does not apply to wholesale customers, which are the rural water districts and towns.

Warren stated he did not arbitrarily pick \$100 as the fee. He chose that amount because our cost is going to be in the vicinity of \$80 and if that is what we would normally charge a citizen of Lawton and not make a profit, then the extra \$20 would be because we are providing that service for someone that lives outside the city limits.

MOVED by Warren, SECOND by Patton, to adopt **Ordinance 07-38**, waive the reading of the ordinance, read the title only and declaring an emergency and approve **Resolution 07-85** amending the contract application fee to be set at \$100. AYE: Warren, Shoemate, Drewry, Jackson, Shanklin, Patton, Haywood. NAY: None. ABSENT: Hanna. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 07-38

An ordinance pertaining to utilities amending Section 22-2-3-232, Division 22-2-3, Article 22-2, Chapter 22, Lawton City Code, 2005, by clarifying the guidelines for purchasing water outside city limits, providing for severability, and declaring an emergency.

42. Discuss Council Policy No. 8-2, regarding additional access requirements for section line roads and arterial streets which have limited access rights and take appropriate action as necessary. Exhibits: Draft Policy and Exhibit A.

Vincent stated the City has been approached by several developers and land owners alongside Quanah Parker Trailway and Lee Boulevard regarding when the state built those roads and obtained limits of no access and those limits were paid for by the City of Lawton as part of the contract. Those properties have been turned back to the City by the state and the limits of no access now belong to the City. Certain individuals have approached staff about releasing those limits of no access. Staff has been working with one or two of those individuals and they are not asking for unlimited rights, they are asking for specific locations as delineated in the attachment that would accomplish 99.9% of the request. He stated they took the number of dollars paid both on Quanah Parker Trailway and Lee Boulevard and to some extent 82<sup>nd</sup> Street and 67<sup>th</sup> Street and it divides out to about \$10,000 per access point for the City to get its money back for what we paid. He stated this is a proposal and if the City Council has any comments, staff can go back and bring it back at a later date.

Warren questioned if they were talking about median cuts.

Vincent stated we have a median cut policy and that will not change. This policy does provide deceleration lanes.

Jackson stated he feels they really need to take a closer look at this before it is approved. They were excited about the idea of limited access roads on Rogers Lane, Quanah Parker and Lee Boulevard when they approved this. He stated traffic flows so well on Rogers Lane, Quanah Parker and Lee Boulevard and it is because they have a limited access agreement.

Warren stated he agrees, but if they do provide those things such as no median cuts, deceleration lanes and that helps take care of part of those problems. He stated he hoped that someday there would be a loop system around Lawton. They had hoped for that with Rogers Lane and Lee Boulevard and that didn't happen because every person that comes before the City Council gets their curb and median cut. He hopes if they ever build a crosstown that it is raised because that is the only way they can guarantee that there won't be any cuts made.

Vincent stated that they have mentioned Rogers Lane a couple of times and this does not apply to Rogers Lane from west of I-44 all the way out to the S curve where it goes back into HW62. That is still state right of way, they did not give that back to us.

Warren stated his point was that Rogers Lane was hopefully going to be a loop and there are stop lights on it now.

Vincent stated they have been approached by three businesses on Quannah Parker Trailway and the Council did approve zoning for a business at 82<sup>nd</sup> and Lee which this would also affect.

Warren stated they need to look at how they are going to allow this to happen because they have to make it happen. There are only two ways to do it, give them limited access or make people put in service roads. The problem is there is not enough room to put in access roads. They need to think about this when new roads are constructed and make sure there is enough room within the boundaries to put in service roads.

Mayor Purcell suggested that the Council appoint two Councilmembers to serve on a committee to meet with staff to come up with a workable solution and bring it back for Council approval.

Drewry questioned if they should talk with some of the businesses.

Jackson stated he does not believe they should.

Mayor Purcell stated he believes that would not accomplish anything.

Warren stated they need to look at recouping the cost. There will be issues that would not otherwise be there if those cuts weren't there and they need to keep that in mind.

Patton questioned if they were to pass this the way it is written, would that basically open to gates or would each business have to come back for a separate approval.

Mitchell stated in Exhibits A, those are the only access points that they would grant on those limited access highways. They would be looking at a controlled intersection at the mile and in between they would be looking at deceleration lanes, and not looking at any left hand turn movements.

Jackson stated if they pass this, they cannot deny it to someone else. They will ask for median cuts.

Patton stated they need to give them access to some point or they will not be able to develop the area.

Jackson stated you give them what they are entitled to with limited access.

Mayor Purcell stated they are not going to solve this tonight. He recommended that two Councilmembers sit on a committee with staff. He asked for volunteers.

Patton and Haywood volunteered to sit on the committee.

MOVED by Warren, SECOND by Shoemate, to appoint Patton and Haywood to sit on a committee with staff and bring back a recommendation to Council regarding a policy involving arterials. AYE: Shoemate, Hanna, Drewry, Jackson, Shanklin, Patton, Haywood, Warren. NAY: None. MOTION CARRIED.

43. Consider accepting the proposal for Life Insurance Provider. Exhibits: Spreadsheet with options, copy of proposal summary page.

Jim Scholes, Human Resources Director, stated as of June 30<sup>th</sup> these three contracts expire and staff went out for RFPs. Staff is recommending that we stay with the current life insurance provider. There was one bid that was equal, but this vendor has a history with us and has serviced us well.

MOVED by Drewry, SECOND by Haywood, to accept the proposal from Lincoln Life. AYE: Hanna, Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate. NAY: None. MOTION CARRIED.

44. Consider accepting the proposal for health and dental care benefits third party administrator, Blue Cross Blue Shield. Exhibits: Spreadsheet with options, copy of BCBS proposal summary page.

Scholes stated this contract also had no extensions and was due to expire on June 30<sup>th</sup>. He stated with the RFP they also request full coverage with is covered in the attachment. He stated there is a correction in the attachment. He stated the amount of annual total cost of proposal for Kempton should read \$655,451. He stated that Blue Cross Blue Shield is the current third party administrator and was the best bid. They will continue service with the same discounts we receive through their network. He stated the stop loss category did improve. The cost did go up a total of \$50,727 versus this current year. Staff did meet with health committee members who did agree with the recommendation.

Warren questioned on the Blue Cross Blue Shield fully funded, what does that come out to per employee.

Scholes stated the monthly premium would be \$435 for a single employee. A single employee with more than two dependents would be \$1,100 per month.

Warren questioned in the self funded program we currently have, what is the cost for each employee.

Scholes stated the cost is around \$250.

Mitchell stated to go to a fully funded program, it would cost an additional \$200 per employee.

Scholes stated next year he will go out for RFP s early enough to allow providers more time.

MOVED by Warren, SECOND by Hanna, to accept the proposal from Blue Cross Blue Shield. AYE: Hanna, Drewry, Shanklin, Patton, Haywood, Warren. NAY: None. ABSENT: Shoemate, Jackson. MOTION CARRIED.

45. Consider accepting the proposal for Employee Assistance Provider. Exhibits: Spreadsheet with options, copy of proposal summary page.

Scholes stated this is our current vendor and they also submitted the lowest bid.

MOVED by Warren, SECOND by Haywood, to accept the proposal from Deer Oaks. AYE: Hanna, Drewry, Shanklin, Patton, Haywood, Warren. NAY: None. ABSENT: Jackson, Shoemate. MOTION CARRIED.

ADDENDUM:

1. Consider approving the construction plans and specifications for a 10-inch waterline and an 8-inch waterline to be constructed along Cache Road, west of 40<sup>th</sup> Street to serve Cache Road Shopping Center. Exhibits: Location Map.

Rogalski stated the construction plans have been reviewed by staff and have found to be in compliance with the requirements we have. The connections to the 42-inch will have special requirements and must be coordinated with the Public Works Department. The developer is Rogers Commercial Properties and the consulting engineer is Landmark Engineering.

Warren questioned if this includes the hotel.

Rogalski stated this would provide water to the hotel. There is a 10-inch line on the south side of the center and an 8-inch line on the north side.

MOVED by Warren, SECOND by Hanna to approve the construction plans and specifications for a 10-inch waterline and an 8-inch waterline to be constructed along Cache Road, west of 40<sup>th</sup> Street to serve Cache Road Shopping Center. AYE: Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Hanna. NAY: None. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Warren stated they need to look at teaming up with Cameron University or someone and putting together some type of program that they can run on cable to get the message out and clear up misconceptions about what money is getting spent for what and how money gets co-mingled. We really need to have some avenue to address some of those issues so that people understand why some of these things are happening. Most people don t understand how CIP projects are paid. He suggested they team with the arts department at Cameron to put together a video so that they can get that message.

Jackson stated they need to do this as soon as possible.

Hanna suggested they place full sheet ads in the paper telling people how money is earmarked.

Mitchell stated there is a problem with spending public money.

Hanna stated there would be the same problem with giving money to Cameron.

Warren stated we could probably get it done for free at Cameron.

Haywood thanked all the donors who are supporting the Juneteenth Celebration which will begin on June 15<sup>th</sup>.

COL Uberti stated over the past few weeks there have been several young citizens who were tragically killed in auto accidents. In almost every incident the deceased was not wearing a safety belt. He stated everyone needs to

remind each other to buckle up while in a car.

Warren stated the ticket for not wearing a seat belt is only \$20. He suggested they talk with their state legislators. If they want to make an impact, they need to raise the fine and get people's attention.

Carl Dentler, Deputy Public Works Director, introduced the newly hired Traffic Engineer, Jeff Banner.

Mayor Purcell stated he and the City Manager received a letter from the Chamber of Commerce requesting a workshop with the City Council. He suggested the evening of July 12<sup>th</sup>.

COL Uberti stated the Lawton-Fort Sill Coop has scheduled their summer social on July 12<sup>th</sup>.

Mayor Purcell suggested July 11<sup>th</sup> at 6:00 p.m. He stated the Chamber would like to discuss what the City Council expects to see in the reporting of the hotel/motel funds and the format of their reports. He stated the City Manager has a copy of an old contract from when he and Councilmember Shanklin sat on a committee in 1996. He stated he would have the City Manager send everyone a copy. He asked everyone to think about the kinds of things they would like to see in that contract.

#### EXECUTIVE SESSION ITEMS

Mayor Purcell stated the City Attorney has said that the next item does not need to be done in executive session.

46. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending workers' compensation claims of Mark Pack, Case Nos., WC-2005-01214F and WC-2005-01215J, and if necessary, take appropriate action in open session. Exhibits: None.

Vincent stated on May 29, 2007 the City Council authorized staff to enter into negotiations for possible joint petition settlement. Since the agenda was published, staff has reached a settlement within the guidelines of the City Council direction.

MOVED by Jackson, SECOND by Hanna to approve the settlement of the Workers Comp case styled Mark Pack vs. The City of Lawton, Case Nos., WC-2005-01214F and WC-2005-01215J by joint petition in the amount of \$50,000 and authorize the City Attorney to execute all documents necessary to have the judgment transferred to Comanche County. AYE: Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Hanna, Drewry. NAY: None. MOTION CARRIED.

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:

TRACI HUSHBECK, CITY CLERK