

Meeting of 2007-6-26 Regular Meeting

MINUTES  
LAWTON CITY COUNCIL REGULAR MEETING  
JUNE 26, 2007 6:00 P.M.  
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor Pro Tem Keith Jackson      Also Present:  
Presiding                      Larry Mitchell, City Manager  
   John Vincent, City Attorney  
   Traci Hushbeck, City Clerk

Mayor Pro Tem Jackson called the meeting to order at 6:02 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Pastor Kim Hames, First Christian Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:                      Bill Shoemate, Ward One  
James Hanna, Ward Two  
Janice Drewry, Ward Three  
   Robert Shanklin, Ward Five  
   Jeff Patton, Ward Six  
   Stanley Haywood, Ward Seven (Arrived @ 6:05 p.m.)  
   Randy Warren, Ward Eight

ABSENT:                      None

AUDIENCE PARTICIPATION: Anyone having an item of business to present to the City Council that does not appear on the agenda, please come forward at this time.

Cheryl Bukky, 1502 SW 8<sup>th</sup> Street, stated she is concerned about illegal fireworks within the city limits. She has seen an escalation over the past few years in her neighborhood. She feels that people do this because they know that it is hard to catch them and also because most of the time written warnings are given. She is not against celebrating the 4<sup>th</sup> of July, but she is against people breaking the law. She stated last year they came home from their 4<sup>th</sup> of July celebration to find all kinds of litter in their yard and rockets embedded in their shingles on the roof. She is surprised their yard did not catch on fire. She suggested they either ban the sale in the city limits or make fireworks legal in the city limits and have designated areas within the city. She also suggested they make if known that they will not give warnings, but give out tickets and make the fines from \$250 to \$750. They could use that money generated to help beautify the city.

Warren stated he agreed and it gets worse in his neighborhood every year. He does not think there are enough police officers on the force to tackle the problem. He does think they could use the littering ordinance to combat the problem. He stated there needs to be a state law that restricts possession of fireworks.

Drewry stated that they need some time to work on this and come up with a solution.

Jackson stated there is not a neighborhood that escapes the problem.

Patton stated they need to remember that it is illegal to shoot fireworks off in the city limits except in designated areas and the problem is bigger than just the city. If they limit the sale, they will just go outside the city limits. This will not stop anyone from buying fireworks and the city will just lose the sales tax revenue. He does agree with Ms. Bukky that they should not be giving warnings.

Shoemate stated he does not believe that it works to designate areas.

Haywood stated that anytime you sell fireworks in the city limits it is going to be hard to enforce. When they stop selling inside the city limits, they can then enforce it.

Warren suggested that staff bring back an ordinance after July 4<sup>th</sup> that would restrict the sale of fireworks inside the city limits and then they will attack the state problem.

Shanklin questioned if there were figures on how many fires were started from fireworks. He stated it is an

American tradition and he is not going to be against it. They could do a little better job of policing it, but the parents should be responsible. He has seen this issue come and go for twenty years. Jackson stated he does not want to do away with fireworks, but he does think they need to enforce it in neighborhoods a little better.

Hanna stated for the police to do their job they have to physically see someone lighting them.

Chief Ronnie Smith, Lawton Police Department, stated they do give a lot of verbal warnings because they just can't prove that someone fired the fireworks. If they can prove it they do give citations. They get 1,500 to 2,000 calls in a weeks time.

Kip Monasee, 1408 SW 10<sup>th</sup> Street, stated she is from Georgia which prohibits the sale of fireworks. She stated they still had the same issue because residents would go across state lines and buy their fireworks.

Mitchell stated there are representatives from CBA Basketball in the audience and they would like to say a few words.

Baron Hopgood, Chairman of the Oklahoma Calvary, LLC, stated they are excited about coming to Lawton and bringing a quality game to Lawton. He introduced the President and General Manager, Otis Birdsong and President and CEO of the CBA, Ricardo Richardson.

Haywood questioned how many home games they would be playing in Lawton.

Mr. Hopgood stated they will play 24 regular season home games.

Jackson questioned if this decision has been made.

Mr. Hopgood stated they have met with the Fair Board and they are putting together and finalizing contracts.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETINGS OF APRIL 24, MAY 8 AND JUNE 12, 2007.

MOVED by Hanna, SECOND by Drewry, to approve the minutes of April 24, May 8 and June 12, 2007. AYE: Patton, Warren, Shoemate, Hanna, Drewry, Jackson, Shanklin. 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 Warren, SECOND by Haywood, to approve the Consent Agenda. AYE: Haywood, Warren, Shoemate, Hanna, Drewry, Jackson, Shanklin, Patton. 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: Ramona Shegog in the amount of \$119.00, Ruben Padilla-Cardona and Dominga Gloria in the amount of \$1,837.18 (**Res. 07-87**), Rigoberto Machado in the amount of \$383.82 and Marianne and Scott McGinnity in the amount of \$1,548.73 (**Res. 07-88**). Exhibits: Legal Opinions/Recommendations, Resolution No. \_\_ and Resolution No. \_\_.

2. Consider the following damage claim recommended for denial: In Son Pang in the amount of \$2,783.66. Exhibits: Legal Opinion/Recommendation.

3. 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 Anthony Zinn, Case No., CJ-2005-1108, against the City of Lawton. Exhibits: **Resolution No. 07-89**.

4. Consider adopting a resolution authorizing the City Attorney to initiate a foreign judgment in favor of Sean McDougle in the amount of \$16,733.10 of the total \$24,420.50 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 Sean McDougle in the Workers' Compensation Court, Case No. 2006-06051 R. Exhibits: **Resolution No. 07-90**.

5. Consider approval of the Retainer Agreement for Legal Services between the City of Lawton and Leah S. Terrill-NesSmith 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 approval of 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 June 6, 2007 and Map of property location.

7. Consider approval of 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 June 8, 2007 and Map of property location.

8. Consider authorizing the Fire Department to accept the second phase of grant funding from the State Office of Homeland Security as well as all remaining grant funding associated with the purchase or acceptance of a fully equipped Technical Rescue Trailer (TRT), auxiliary rescue equipment, and tow vehicle. Exhibits: None.

9. Consider approving annual contract renewals between the City of Lawton and the following: County Commissioners (re: Juvenile Detention Center); J. Roy Dunning (re: Children s Shelter); and Roadback (re: Detoxification Center); Lawton Crimestoppers, Inc. (re: Funds from sale of property in police custody.) Exhibits: Copies of contracts are located in the City Clerk s Office for review.

10. Consider adopting a resolution extending the present five percent (5%) Emergency Telephone fee through June 30, 2008. Exhibits: **Resolution 07-91**.

11. Consider accepting the Elmer Thomas Park Stage Construction Project #2006-13 as constructed by H.G. Jenkins Construction, Inc. and placing the Maintenance Bond into effect. Exhibits: None.

12. Consider approving an agreement with Graham & Associates for professional engineering design services for the Lake Ellsworth Pump Station Electrical Project #2007-5. Exhibits: None.

13. Consider approving the annual Cooperative Agreement and an Agreement for Limited Funding between the City and Transit Trust to provide funds for the operation of a public transit system and authorize the Mayor and City Clerk to execute the same. Exhibits: Cooperative Agreement and Limited Funding Agreement are on file in the City Clerk s office.

14. Consider approving the construction plans for an 8-inch waterline extension to serve Independence Place Apartments located at 3502 East Gore Boulevard. Exhibits: None.

15. Consider approving a Memorandum of Agreement between the Oklahoma State Department of Health and the City of Lawton for Public Health Services and authorize the Mayor and City Clerk to execute the document. Exhibits: Memorandum of Agreement on file in the City Clerk s office.

16. Consider accepting the Workforce Investment Act (WIA) Youth Program Activities Grant from the South Central Oklahoma Workforce Investment Board (SCOWIB) for the FY 2007-2008. Exhibits: Youth Services: Education, Employment & Empowerment Budget (YS!E<sup>3</sup>) and YS!E<sup>3</sup> Case Manager Duty Narrative.

17. Consider approving Agreement for Limited Services with the Museum of the Great Plains. Exhibits: Agreement for Limited Services.

18. Consider awarding (CL07-037) Hydraulic Excavator, 15,000 lb. Class to C. L. Boyd Company, Inc., of Oklahoma City, OK. Exhibits: Department recommendation, abstract of bids.

19. Consider awarding (CL07-055) Cone Valve w/ Hydraulic Cylinder to Rodney Hunt Company, Inc., of Orange, MA. Exhibits: Department recommendation, abstract of bids.

20. Consider awarding (RFPC07-051) Rental or Lease of Work Clothing to Cintas Corporation of Lawton, OK. Exhibits: Department recommendation, cost comparison.

21. Consider awarding (CL07-057) 12 High-Pressure Pumping Unit to Kinnunen Sales and Rental of Stillwater, OK. Exhibits: Department recommendation, abstract of bids.

22. Consider extending the contract (CL07-002) Lawton Arts & Entertainment Magazine with ColorGraphics THE PRINT SHOP, Inc., of Lawton, OK. Exhibits: Department Recommendation, Price Bid Sheet, Contract Extension Form.

23. Consider extending the contract (CL06-066) Rental of Portable Restrooms with ARA Equipment Rentals of Lawton, OK. Exhibits: Department Recommendation, Price Bid Sheet, Contract Extension Form.

24. Consider extending the contract (CL06-064) Liquid Oxygen with Airgas Mid South, Inc., of Tulsa, OK. Exhibits: Department Recommendation, Price Bid Sheet, Contract Extension Form.

25. Consider extending the contract (CL07-001) Precast Concrete Manholes with Nance Precast Concrete Products of Piedmont, OK. Exhibits: Department Recommendation, Price Bid Sheet, Contract Extension Form.

26. Consider approving appointments to boards and commissions. Exhibits: None

27. Consider approval of payroll for the period of June 4 17, 2007.

#### BUSINESS ITEMS:

28. 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-\_\_.

Vincent stated staff was directed at the May 22<sup>nd</sup> meeting to prepare this item at the request of Councilmember Shanklin. This ordinance will prohibit parking of vehicles in over 50% of your yard in any zoning district in which the primary residence or primary structure is used as a single family or duplex residence, no matter what the zoning district.

Patton questioned what exactly was changed.

Vincent stated it originally only applied to one and two family residences in R-1 and R-2 zones, but there are a lot of areas in Old Town North, Liberty Heights, Fields and Dunning, North Addition and other places where they had been zoned R-3 or R-4, but they still have single family residences. This gave them a loophole to the parking limitation.

Shoemate stated this calls for a compliance period. He hopes they don't arbitrarily start jumping on residents within a week. He stated some of these people may be on fixed incomes and may not have the money to fix their parking situation.

Vincent stated it does have an emergency clause which means it would go into effect immediately. However if the City Council chose to remove the emergency it would have a thirty day grace period. He stated staff was instructed to remove the compliance period.

Jackson questioned if a thirty day notice was sufficient.

Shoemate stated many people don't have the money to lay a hard surface.

Warren suggested they go ahead and pass this ordinance with an emergency clause but then direct staff to only issue warnings for thirty days.

Shoemate stated he does not believe that thirty days is enough time. They get a social security check once a month and that check may be spent before they get it. He would rather give them 90 days.

Vincent stated they can establish an effective date in 90 days.

MOVED by Hanna, SECOND by Shanklin, to adopt **Ordinance 07-39**, waive the reading of the ordinance, read the title only and declaring an emergency and establish a 90 day notice period. AYE: Warren, Shoemate, Hanna, Drewry, Jackson, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 07-39

An ordinance pertaining to nuisances and health 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.

29. Discuss and consider reimbursement in the amount of \$24,412.87 for financial loss caused by flooding and overflow from the drainage canal on two occasions, occurring March 29, 2007 and May 7, 2007, to the Lawton Community Theater housed in the City owned building, 1316 NW Bell Avenue, and take action as deemed necessary. Exhibits: Letter from Lawton Community Theater President Elect Alan Jolly, June 13, 2007 and Estimates for repairs and restoration to the theater.

Mitchell stated this item was placed on the agenda by Councilmember Patton. He distributed a portion of the lease

agreement with Lawton Community Theater and a floodplain map.

Patton stated he has noticed over the course of several years that the City Council has made donations to organizations in the name of economic development. He stated that Lawton Community Theater is housed in a building that the city owns, but they do all of the maintenance themselves. The City has, in the past, helped them with the roof and a parking lot, but they have never received any type of consistent funding from the City of Lawton. He stated they are a self sufficient group and are an asset to our community.

Tom Sutherland, President of the Lawton Community Theater Board, conducted a short presentation. He stated when they looked at this data they discovered it only takes a 2-inch rainfall in a 24 hour period for them to have problems.

Drewry questioned if they spend this money and make all of these repairs, will they just have to do it again?

Warren stated no matter what they do, the building is still in a creek and will still flood. He stated a normal rain fall will cause this to flood. He feels if they are going to do something, he suggested they find some land which the city owns that can be used for a community build project and build a new theater. This community has come together for a lot of things and he feels this can be accomplished.

Drewry stated they are asking for a reimbursement of money that has already been spent.

Warren stated he would be willing to refund that money, but use it as rent for a new building or seed money and put together a community build.

Shanklin stated the creek that floods the theater has been developed for 40 years. He stated there can be a wall put up. He is going to support the payment of the \$24,000 because these people are voters and the City has spent \$300,000 for skateboarders and he does want to fund this. He would like to look at a way with our engineers to build a retaining wall. He can see how it can be done.

Ihler stated the building is entirely surrounded. Building a wall in front would help during smaller storms, but basically they would have to build a mote around the building to keep the water out. He stated if they made the improvements that were identified in the 2003 flood plain report by Carter Burgess, the cost would be approximately \$12 million. He stated you would have to make improvements all the way downstream to improve this location. He suggested they look at another location to house the theater.

Shanklin stated it is still the same water coming off of the same buildings and the same area that is coming down that channel.

Ihler stated that the capacity that comes through Bell Avenue is about four times what the capacity of that structure is in a ten year storm.

Shanklin stated that in 1948 or 1949 they put in the three boxes at 9<sup>th</sup> and I Avenue and that is the creek that runs by Salas . In 40 or 50 years they have gone out there and spent hundreds of thousands of dollars for other people to develop and flood us. When do when get to come back and sue somebody to either correct what they are putting on me or buy me out. How do we get to continue to flood the people in the older part of town just because you don t like us.

Vincent stated he has told developers that under current Oklahoma law, if they flood people down stream they can be held liable by the person that they flood.

Shanklin questioned if that meant the developer or the city that allowed them to develop.

Vincent stated it would be the developer. The upstream developer is responsible for flooding downstream people. He stated this is a general rule of thumb in the state. There is a specific exemption in a tort claim act and that is the only thing you can sue a city under right now in Oklahoma for acts of God.

Drewry stated she is all for supporting and reimbursing some of this money that they lost. She would like for them to consider trying to find another location. She stated in her ward a lot of areas are being flooded because of new development and it is happening all over.

Hanna questioned where they were going to get the money to pay for this.

Mitchell stated staff has identified the Repair and Maintenance Account and another possible source would be the remaining balance of the hotel/motel money if they consider that to be tourism related.

Hanna questioned if that hotel/motel money was incorporated in the carry over.

Mitchell stated no, that is a dedicated fund. He stated there is an auditorium in the old Lawton High School that will seat 500 people and would be an excellent location for a community theater. He stated they are only looking for \$1 million to renovate the auditorium.

Vincent stated because of the way the lease is written, if they want to give Lawton Community Theater a source of funds out of hotel/motel, economic development and tourism, the City would need to amend the lease and make the City a co-sponsor of the Lawton Community Theater.

Haywood stated the building has a lot of history and he has known that the channel is a problem. The City is working to eliminate some of these problems because it takes a lot of money. He feels that Lawton Community Theater needs their own building where they don't have to worry about who is going to be using the auditorium. He does support the reimbursement of this money.

Warren questioned if the building had a crawl space.

Haywood stated it is on a slab.

Patton stated there are really two issues here. One is the reimbursement of these expenses and the much bigger issue is the venue. He stated the theater is still just a converted gym even though they have worked really hard to make it into a nice theater. When they have larger productions they have to move to Cameron because they just didn't have the room. He stated they need and deserve their own stand alone theater. He stated he would feel more comfortable taking this money out of the hotel/motel funds from an economic development and tourism standpoint because the Repair and Maintenance account does not have a very large balance. He questioned what they would need to do tonight to amend this contract.

Vincent questioned if those from Lawton Community Theater could possibly wait for thirty days and staff will work on a possible contract amendment.

Mr. Sutherland stated they can wait and will go about producing shows and doing what they need to do.

Shanklin stated they could take it out of contingency fund with the idea that they will take it out of hotel/motel.

Hanna questioned who owned McMahon Auditorium.

Vincent stated the City of Lawton owns it.

Hanna questioned why they could not use that auditorium.

Patton stated the problem with McMahon Auditorium is that there is a stage hand union and it is so cost prohibitive to do anything there. It would be a perfect venue.

Haywood stated they just used McMahon Auditorium for the Juneteenth celebration and to pull the curtain they had to pay \$50 and hour, to turn on the lights they had to pay \$50 and hour and it will come out to be at least \$400.

Patton questioned why we were still involved in this.

Jackson stated they are getting off track and the question is if LCT can wait the thirty days for the amended lease.

Mr. Sutherland stated they could wait for thirty days.

Shanklin stated he would like to pay this out of contingency fund hoping that they will replace that with the hotel/motel tax.

Drewry questioned if they can do it that way.

Shanklin stated yes, they can pay it out of contingency, but they can later get the money out of the hotel/motel tax and reimburse the contingency.

Vincent stated that would work as long as they sign the contract amendment.

MOVED by Shanklin, SECOND by Patton, to reimburse Lawton Community Theater for financial loss in the amount of \$24,412.87 to be paid out of contingency fund and later taken out of hotel/motel funds with the understanding that a new agreement will be drafted within 30 days. AYE: Shoemate, Hanna, Drewry, Jackson, Shanklin, Patton, Haywood, Warren. NAY: None. MOTION CARRIED.

Patton stated he would like to have an item on a future agenda to talk about McMahon Auditorium.

30. Consider an ordinance pertaining to restrictions on skateboards, roller skates, and in-line skates, creating Section 19-7-713, Article 19-7, Chapter 19, Lawton City Code, 2005, imposing restrictions on the use of skateboards, roller skates and in - line skates on City property, providing for severability, codification, and declaring an emergency. Exhibits: Ordinance 2007-\_\_\_.

Warren stated he asked staff to draw this up a year and a half ago but he wanted to wait until the skateboard park was finished. There is a real issue with kids riding skateboards or in-line skates on city property prior to the development of the skateboard park and he hoped that would cure the problem. There are still issues with people using in-line skates and skateboards on tennis courts or the poles in front of city hall. This ordinance will hold the kids and/or their parents responsible.

Shoemate stated that kids have knocked all the plastic coating off the benches at Tomlinson inside their courtyard. He stated a group showed up at the tennis courts on 38<sup>th</sup> Street during a tournament and refused to leave the premises. People coming in to town for this tournament were disrupted by skateboarders.

Haywood stated they should be going to the skateboard park.

MOVED by Warren, SECOND by Shoemate, to adopt **Ordinance 07-40**, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Hanna, Drewry, Jackson, Shanklin, Patton, Haywood Warren, Shoemate. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 07-40

An ordinance pertaining to restrictions on skateboards, roller skates, and in-line skates, creating Section 19-7-713, Article 19-7, Chapter 19, Lawton City Code, 2005, to impose restrictions on the use of skateboards, roller skates, and in-line skates on city property, providing for severability, codification, and declaring an emergency.

ADDENDUM:

1. Consider a one year extension of the Retainer Agreement for Professional Engineering Services with Chiang, Patel, and Yerby, Inc. Exhibits: Current contract and agreement to extend from CP&Y.

Richard Rogalski, Planning Director, stated on September 12, 2006 the City Council authorized a Retainer Agreement for Professional Engineering Services with Chiang, Patel, and Yerby, Inc. (CP&Y) to assist the Planning Division by providing construction plan review. This contract, which was amended on April 24<sup>th</sup> 2007 to include traffic engineering, is set to expire on June 30, 2007, but includes a provision for three one year extensions at the same rates and conditions, by agreement of both parties. Prior to contracting with CP&Y, the average review time for a construction plat submittal was 39 days. Since that time, the average review time has been reduced to 25 days. In the budget for the coming fiscal year, there is a provision for an in-house plan review engineer. However, until this engineer can be hired, it is important to continue with the agreement with CP&Y.

Shanklin questioned how much money has been spent.

Rogalski stated they have spent \$19,000 since September 12<sup>th</sup>.

MOVED by Warren, SECOND by Haywood, to authorize a one year extension of the Retainer Agreement for Professional Engineering Services with Chiang, Patel, and Yerby, Inc. AYE: Drewry, Jackson, Shanklin, Patton, Haywood Warren, Shoemate, Hanna. NAY: None. MOTION CARRIED.

2. Consider accepting a cost recovery check for services provided to the City of Anadarko in the amount of One thousand, one hundred, seventy-nine dollars and fifty-two cents (\$1179.52) and authorize the Finance Department to deposit these funds into the Lawton Fire Department Donation and Reimbursement account (Fund 26) for replenishment/maintenance of HAZMAT equipment. Exhibits: None.

Chief Bart Hadley, Lawton Fire Department, stated this is an ongoing concern and with the grant they received for the regional response unit there is a lot of technical equipment to keep up with. Very often when they do go out they are able to be reimbursed either through insurance or through the private company that caused the spill. This particular incident is mutual aid assistance with Anadarko Fire Department when they had their peanut mill fire. He stated staff will be bringing back an ordinance that establishes a process where they can get that money and use it for ongoing recurring costs associated with that HAZMAT truck.

Shanklin questioned if the fire department would spend this money.

Chief Hadley stated it would be for a specific purpose which would be for the upkeep and maintenance of the HAZMAT truck and replacement of consumables on that truck.

Jackson stated according to the City Attorney the money would be placed in the general fund but earmarked.

Shanklin questioned if it would be earmarked in addition to their budget.

Vincent stated that would be a question for the City Council. Council can use this as an offset against the budget similar to what other organizations do that receive funds.

Shanklin stated he does not want to give this money to them as extra funds.

MOVED by Shanklin, SECOND by Haywood, to accept a cost recovery check for services provided to the City of Anadarko in the amount of \$1179.52 and authorize the Finance Department to deposit these funds into the general fund.

Warren stated if the money goes into the general fund, it just has to come right back out again and replenish those materials that were used or they will not be able to use the truck. He does not understand why they would not want to create a fund to make that truck self sufficient. He stated the money would be staying in that truck. In theory, they would have to wait until the next budget cycle before they could replenish the stuff on the truck.

Shanklin stated his theory is not worth a hoot. He stated the City Manager can transfer funds from one line item to another at any time during the fiscal year without approval from the City Council. He stated they don't even need to go through the budget process.

Warren stated the Chief would have to go to the City Manager and ask that the money be moved from one account to another.

Hanna stated when it goes into the general fund it draws interest for the general fund.

Haywood suggested that they accept this money and place it in the general fund and if the fire department needs money, they can just ask the City Manager.

Warren stated he feels this applies to more situations now and in the future, rather than just this fire truck. There are a lot of consumables that we use in other departments where this could come into play.

SUBSTITUTE MOTION by Warren, SECOND by Drewry, to accept a cost recovery check for services provided to the City of Anadarko in the amount of \$1179.52 and authorizes the Finance Department to deposit these funds into the Lawton Fire Department Donation and Reimbursement account. AYE: Warren, Drewry. NAY: Shanklin, Patton, Haywood, Shoemate, Hanna, Jackson. MOTION FAILED.

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

3. Consider amending Resolution 07-68 designating places and times to discharge fireworks and take appropriate action if necessary. Exhibits: None.

Drewry stated there has been a request to discharge fireworks at Ralph's Resort. Mr. Ryans, the boathouse owner, has requested that he be able to shoot off fireworks off of his boathouse. She stated she sees no reason why they should not grant this request.

Patton stated they have done this before.

Hanna stated when he was on the Council years ago they stopped shooting fireworks off of boathouses because it goes into the lake and makes a mess.

Patton stated the City Council has allowed fireworks to be shot off boathouses before. This is just one individual who is responsible for his area.

MOVED by Drewry, SECOND by Patton, to approve **Resolution 07-92** amending Resolution 07-68 designating places and times to discharge fireworks to include Ryans Boathouse, Ralph's Resort at Lake Ellsworth, Slip RR10. AYE: Patton, Haywood, Warren, Shoemate, Hanna, Drewry, Jackson, Shanklin. NAY: None. MOTION CARRIED.

4. Declare an emergency to the competitive bidding process and authorize staff to proceed with plans for repair/replacement and identify a funding source for said repairs/replacement. Exhibits: To be provided.

Ihler gave a brief update regarding the break in the 24-inch line that serves east Lawton. He stated they have had to order special pipe and they were able to get a pipe supplier to commit to delivery. He stated they had to fuse the pipe together and staff is ready to move into the site when weather permits them to move into the location.



They believe they have 24 to 30 hours worth of work if they can catch a dry period because the last thing they want is for their equipment to be flooded. This would provide them with the required fire flows. A long term permanent fix is that they need to replace that 24 inch water line and bypass underneath East Cache Creek with a 24 inch line encased in a 30 inch pipe so that it will not wash out in the future.

Shanklin questioned if the water line was 60 feet deep.

Ihler stated no, the channel is about 25 to 30 feet deep. The estimated cost for the temporary fix is approximately \$30,000. The permanent repair will be approximately \$200,000. The funding source they have identified for the temporary fix is from 2005 CIP waterline improvement money is approximately \$30,000. The permanent repair will be approximately \$200,000. The funding source they have identified is from 2005 CIP waterline improvement money. He stated it is critical that they move as fast as they can to provide adequate fire flows to the east side.

Staff is requesting that they be allowed to move forward and buy the material including the 30 inch steel encasement and the 24 inch waterline pipe so that they can have it on site for when they can get quotes from a contractor. It will take approximately a week and a half to get the plans together to go out and get a minimum of three quotes.

Shanklin questioned if anyone in Southwest Oklahoma was capable of doing this job.

Ihler stated that Vance Giblet has done several projects in the past and live in the Snyder area. He stated the contractor who is working on the southeast plant and tower expressed interest in bidding on the project.

Shanklin stated he has been reading in the paper that other residents need to go easy on the water because it would take away from the water pressure in east Lawton. He does not believe that. In 1990 when they passed the water towers, they put in a pump station this side of Medicine Park. He questioned why they would even say that the west side people have to go easy on the water.

Ihler stated they are trying to feed the entire east side with one 10 inch line. Only so much water can come through that line. From midnight to 6:00 a.m. they do turn one pump on to feed the east tower and as soon as they turn that pump on, the rest of the low zone on the east side of town just pulls all of that water and pumps it into the tower. Those people experience low pressure and in the high areas had no water. Only so much water gets to that 10 inch and as people are pulling off on the west side, it pulls part of that water that comes to that 10 inch main. The more everyone conserves city wide, the better pressure you have on the east side.

Shanklin questioned why they don't just turn the pumps up another four or five pounds.

Ihler stated they have reset the pumps at pump station #4 to where they will push a little more. Keep in mind they are now feeding those 5,000 homes with one 10 inch line and they don't want to take the chance of changing the pressure within that line to where the change in the pressure creates a situation where they break that line.

Jackson stated they made statements based on the information they received by staff. There is a lot of importance given to the issue of fire protection and that is the main reason they are asking for the community support on the conservation of water. If there is low flow, there are times in the evening where there is no water. He does not want those citizens to be without fire protection. He feels they are getting cooperation from the rest of the city.

Ihler stated the demand did go down on Saturday.

Jackson stated he is concerned about the stability of that one ten inch line feeding 5,000 6,000 homes.

Patton commended Mr. Ihler and the employees in the Public Works department for doing a great job.

MOVED by Jackson. SECOND by Warren, to declare an emergency to the competitive bidding process and authorize staff to proceed with plans for repair/replacement and identify a funding source for said repairs/replacement from the 2005 CIP waterline improvement funds and authorize staff to buy materials for the permanent replacement. AYE: Haywood, Warren, Shoemate, Hanna, Drewry, Jackson, Shanklin, Patton. NAY: None. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

COL Uberti stated they have received authority to begin awarding the contract for the base realignment and closure. They have awarded about 40% of the first \$138 million in the last four work days. They expect to have the rest of the money awarded pretty quickly and they are moving on with the design for the fiscal year 2008 projects which will be between another \$80 - \$120 million. Within the next 45 days they will alter the traffic pattern at Fort Sill Boulevard to accommodate all the construction traffic.

Shoemate complimented the Public Works employees who work in the very worst elements and do an outstanding job.

Drewry stated she was upset to pick up the paper on Sunday and see a photo of a young man. There is a warrant out for his arrest and someone was delivering water to him. She does not understand this. She stated there has been a warrant out for him for a long time and it shouldn't happen, it should be handled.

Mitchell reminded the City Council of a special meeting on Wednesday, July 11<sup>th</sup> at 6:00 p.m. with the Chamber of Commerce.

Shanklin stated the public works employees may appreciate all of these accolades, but they appreciate it more on payday. He stated some employees are making \$60,000 - \$65,000 doing nothing. He has a hard time with this. He stated about five or six months ago they were going to go through and look at the pay. He questioned if they were not doing this now because of the union.

Mitchell stated that was part of the reason. There are about 48 contested positions that they are still trying to get through the PERB board.

Shanklin stated a man who can pass a state board on electrical or plumbing is entitled to make as much money as some of these people. He stated he feels it is truly an injustice. He stated there is a resident at 1509 Arlington who has cats in her back yard. He requested staff go get them. He stated at 1707 Bell the resident had ankle deep water. He requested staff go by and look at it. He stated Old Town North has been there since the 1950s and the streets flood, yet we keep building new stuff out northwest. He cannot believe that they cannot do something for the working man that has chosen to live in the older parts of town.

Patton stated he has had several constituents ask about the pumping charges on the water bill and why they are paying pumping charges when water is being let out of the lake.

Ihler stated by the time they receive the bill from Waurika it is a two month time frame before it is sent out to the customers. He stated there is a standby pumping charge, where they are paying for the availability. Those are the two main issues.

Endicott stated they just received a \$9,000 bill for some minor pumping in the month of May. It came out to four cents. He stated they are trying to figure out if they should actually absorb that fee as opposed to billing it out. Typically they have pumped month after month and it takes about two months.

Patton stated if there is a standby fee that means it will never be zero.

Theoretically there should always be a pumping fee because of that standby fee. In the past they have tried to absorb some of these if they are small enough.

Mitchell stated it is also important to note that there are twenty billing cycles. There is not only a two month window, but if your billing cycle is just past those two months, you might not get the initial pumping charge until the third month. He stated they did stop pumping on May 1<sup>st</sup>. Very shortly everyone should see that pumping fee diminish or zero out.

Haywood stated that he is going to miss Court Newkirk who is leaving the Chamber of Commerce. He thanked him for all of the things he did for the city of Lawton. He thanked all of those who contributed to the Juneteenth celebration. He congratulated Albert Johnson who was made a Vice President at Cameron University.

The Mayor and Council convened in executive session at 7:54 p.m. and reconvened in regular, open session at 8:54 p.m. Roll call reflected all members present.

#### EXECUTIVE SESSION ITEMS

31. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss negotiations for a Collective Bargaining Agreement for FY 2007-2008 between the Police Union, IUPA, Local 24, and the City of Lawton, and take appropriate action in open session. Exhibits: None.

Vincent read the title of item 31. He stated the City Council was briefed on the status of negotiations.

MOVED by Patton, SECOND by Warren to approve **Res. 07-93** extending the terms of the current police contract for the fiscal year 2007-2008 or until such time as the parties reach a new contract or June 30, 2008 whichever occurs first. AYE: Hanna, Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate. NAY: None. MOTION CARRIED

32. Pursuant to Section 307B.2&4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss negotiations concerning employees and representatives of employee groups and the proceedings in American Federation of State, County, and Municipal Employees Union vs. City of Lawton, Oklahoma, PERB No. M1400,

and if necessary, take appropriate action in open session. Exhibits: None

Vincent read the title of item 32. He stated the City Council did determine that there would be no audience participation during this time. The City Council was briefed on the status of negotiations and the status of the PERB case concerning the contested employees.

MOVED by Shoemate, SECOND by Warren to approve **Res. 07-94** granting to the employees in contested positions the same wages and benefits as non union general employees of the city until such time as the public employees relations board entered and ordered determining which positions are included or excluded from the AFSCME bargaining unit or otherwise modified by the City Council. AYE: Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Hanna. NAY: None. MOTION CARRIED

MOVED by Drewry, SECOND by Patton to approve **Res. 07-86** for those employees in the AFSCME bargaining unit extending the personnel provisions of City Code Chapter 17 the salary schedule and pay rate in effect as of midnight June 30, 2007, but as the union has chosen not to participate in employee health plan, the plan will not be extended until such time as a contract is reached or June 30, 2008, whichever occurs first. AYE: Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Hanna, Drewry. NAY: None. MOTION CARRIED

33. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss reopening negotiations for a Collective Bargaining Agreement for FY 2007-2008 between the Fire Union IAFF, Local 1882, and the City of Lawton, and take appropriate action in open session. Exhibits: None.

Vincent read the title of item 33. No action is required.

There being no further business to consider, the meeting adjourned at 8:58 p.m. upon motion, second and roll call vote.

KEITH JACKSON, MAYOR PRO TEM

ATTEST:

TRACI HUSHBECK, CITY CLERK