

Meeting of 2007-9-11 Regular Meeting

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
SEPTEMBER 11, 2007 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor John Purcell, Jr. Also Present:
Presiding Larry Mitchell, City Manager
 John Vincent, City Attorney
 Traci Hushbeck, City Clerk

Mayor Purcell called the meeting to order at 6:04 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Reverend Bill Carlin, St. Andrews Episcopal Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT: Bill Shoemate, Ward One
James Hanna, Ward Two
Janice Drewry, Ward Three
 Keith Jackson, Ward Four
Robert Shanklin, Ward Five
Jeff Patton, Ward Six
 Stanley Haywood, Ward Seven
 Randy Warren, Ward Eight

ABSENT: None

AUDIENCE PARTICIPATION: None

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF JULY 10, 2007.

MOVED by Drewry, SECOND by Hanna, to approve the minutes of July 10, 2007. AYE: Patton, Haywood, 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 Shoemate, to approve the Consent Agenda as written. AYE: Haywood, Warren, Shoemate, Hanna, Drewry, Jackson, Shanklin, Patton. NAY: None. MOTION CARRIED.

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

1. Consider the following damage claims recommended for approval and consider passage of the resolution authorizing the City Attorney to file a friendly suit for the claims which are over \$400.00: Gloria F. Mutdosch in the reduced amount of \$4,269.23 (**Resolution 07-117**) and Curley and Pearline Howell in the amount of \$1,771.56 (**Resolution 07-118**). Exhibits: Legal Opinions/Recommendations

2 Consider the following damage claims recommended for denial: Sarah and Matthew Houghton in the amount of \$198.83 and Kenneth and Claudia Kendrick in the amount of \$2,891.50. Exhibits: Legal Opinions/Recommendations.

3. Consider approval of an amended Agreement for Administrative Professional Services with Amanda Trankovich, to work as a Legal Assistant Intern in the City Attorney s Office, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits:
Proposed Amended Agreement.

4. Consider approving a resolution authorizing and calling for an election in the City of Lawton, State of Oklahoma, for the purpose of setting the dates for the 2007 primary and 2008 general municipal elections of the designated City Council seats, setting a ballot title; and authorizing the Mayor to issue an election proclamation. Exhibits: **Resolution No. 07-119** and Election Proclamation.
5. Consider a request to provide payment in lieu of stormwater detention for the Arvest Bank addition at 4330 NW Cache Road. Exhibits: Site plan showing proposed addition and Letter of request from CDBL, Inc.
6. Consider accepting the sanitary sewerline constructed to serve Pizza Hut located at SE 45th Street and Lee Boulevard and maintenance bond. Exhibits: Location Map. Maintenance Bond on file in City Clerk s Office.
7. Consider approving Change Order No. 1 for the Water Infrastructure Improvement Phase I (Lines) Project #2006-8 with Triangle Excavating Co. Exhibits: None.
8. Consider authorizing payment to Turley and Maria Dalston for surface lease damages related to the Water Infrastructure Improvement Phase I (SEWTP Lines) Project #2006-8. Exhibits: Tenant Release Form.
9. Consider authorizing payment to Rudolph and Charlene Hanza for crop and surface lease damages related to the Water Infrastructure Improvement Phase I (SEWTP Lines) Project #2006-8 and the Southeast Water Treatment Plant Project. Exhibits: Tenant Release Form.
10. Consider awarding a construction contract to Ramsey Ward Electrical for the Lake Ellsworth Pump Station Electrical Project #2007-5. Exhibits: None.
11. Consider accepting permanent easements from VORTEX, Inc. and R&M Property Management, LLC which is needed for the North Wolf Creek Upgrade/Expansion Project Part 3 (this project starts at 40th & Gore and proceeds along the west branch of Wolf Creek to 75th Street), and authorizing the Mayor and City Clerk to execute the easement. Exhibits: Documents are on file in the City Clerk s Office.
12. Consider extending the contract (CL06-006) Plexar-Custom Service Agreement with AT&T of Oklahoma City, OK. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.
13. Consider extending the contract (CL06-007) Degreaser with Mid-American Research Chemical Corp., of Windthorst, TX. Exhibits: Department Recommendation, Price Bid Sheet, Contract Extension Form.
14. Consider extending the contract (CL06-010) Testing Services with Standard Testing and Engineering Co., of Lawton, OK. Exhibits: Department Recommendation, Price Bid Sheets, Contract Extension Form.
15. Consider extending the contract (CL06-011) Redi-mix Concrete with Lawton Transit Mix, Inc., of Lawton, OK. Exhibits: Department Recommendation, Price Bid Sheet, Contract Extension Form.
16. Consider extending the contract (CL07-005) Aqueous Ammonia with Southern Ionics of West Point, MS. Exhibits: Department Recommendation, Price Bid Sheet, Contract Extension Form.
17. Consider extending the contract (CL07-010) Hardware/Software Support Agreement with Atlantic Tech Services of Richfield, OH. Exhibits: Department Recommendation, Price Bid Sheet, Contract Extension Form.
18. Consider extending the contract (CL07-004) Tire Recapping with Mileage Masters of Oklahoma City, OK. Exhibits: Department Recommendation, Price Bid Sheet, Contract Extension Form.
19. Consider approving appointments to boards and commissions. Exhibits: None.
20. Consider approval of payroll for the periods of August 27 September 9, 2007.

BUSINESS ITEMS:

21. Hold a public hearing and consider a resolution amending the 2025 Land Use Plan from Residential/Low Density to Commercial and an ordinance changing the zoning from R-1 (Single-Family Dwelling District) to C-1 (Local Commercial District) zoning classification located at 511 SW 82nd Street. Exhibits: Resolution 07-__, Ordinance 07-__, Location Map, Site Plan, Applications and CPC Minutes.

Richard Rogalski, Planning Director, stated this request is for Lot 1, Block 1, Wyatt Village Addition (approximately

3.7 acres). It is located on 82nd Street just north of the railroad tracks. This lot was recently rezoned R-1 along with the subdivision. The request was to put C-1 on these lots. The zoning of the surrounding area is R-1 to the north and west, Temporary A-1 (General Agricultural District) and I-4 (Heavy Industrial District) to the south, and R-3 (Multiple-Family Dwelling District) and R-1 to the east. The land use of the surrounding area is single-family residential to the north (Wyatt Village) and east (Blys Pointe) and vacant to the south and west.

The 2025 Land Use Plan designates this lot as Residential/Low Density. It was changed from an industrial land use when the subdivision went in and now they are requesting that it be changed to commercial to allow the C-1 zoning. The site plan submitted with the application shows five separate buildings ranging in size from 3,900 square feet to 5,700 square feet. He stated generally there would be some concern about C-1 going in adjacent to residential, however since there is industrial zoning to the south, staff feels that the C-1 would actually create a buffer from the existing residential.

The City Planning Commission held a public hearing on August 16, 2007 on this request. During the public hearing one person spoke in favor of the request. The CPC, by a vote of 8 0, recommended approval of the request.

Notice of public hearing was mailed on August 21, 2007 to 19 owners of property within 300 feet of the requested area, and proper notice was published in *The Lawton Constitution* on August 26, 2007.

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

MOVED by Patton, SECOND by Haywood, to adopt **Resolution 07-120** and adopt **Ordinance 07-55**, 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 07-55

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

22. Hold a public hearing and consider an ordinance changing the zoning from C-1 (Local Commercial District) to C-5 (General Commercial District) zoning classification located at 1116 SW B Avenue. Exhibits: Ordinance 07-__, Location Map, Site Plan, Applications and CPC Minutes.

Rogalski stated this request includes Lots 9, 10, and 11, Block 7, Butler Addition, measuring 100 x150 . The applicant is JRP, LLC. The zoning of the surrounding area is C-5 to the north, south and east and R-4 (High Density Apartment District) to the west. The land use of the surrounding area is parking lot to the north, commercial to the south and east, and single-family residential to the west.

The 2025 Land Use Plan designates these lots as Commercial. These lots were zoned C-1 in 2001 for a beauty shop. The current property owner owns Lots 1 11, Block 7, and has removed all of the buildings. Lots 1 through 8 are currently zoned C-5. The property owner plans to construct two buildings on his property for retail and office uses and wants all of the lots to have the same zoning classification.

The City Planning Commission held a public hearing on this request on August 16, 2007. No one spoke either for or against the request at the public hearing. The CPC, by a vote of 8 0, recommended approval of the request.

Notice of public hearing was mailed on August 21, 2007 to 24 owners of property within 300 feet of the requested area, and proper notice was published in *The Lawton Constitution* on August 26, 2007.

Warren questioned if this is the project they have already cut the footing for on the corner.

Rogalski stated they have not gotten building plans approved, but they may have been doing some demolition on the property.

Warren stated there was some discussion regarding the ingress and egress on 11th Street. He stated he thought there was a note from staff recommending that the City Council not allow that.

Rogalski stated he is referring to the opening on 12th Street. Staff recommended to the applicant that they eliminate the ingress and egress on 12th Street since it was still a residential area. They feel the one on 11th and on B Avenue are sufficient. He stated this is not a binding site plan.

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

MOVED by Shanklin, SECOND by Hanna, to adopt **Ordinance 07-56**, waive the reading of the ordinance, read the title. AYE: Shoemate, Hanna, Drewry, Jackson, Shanklin, Patton, Haywood, Warren. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 07-56

An ordinance changing the zoning classification from the existing classification of C-1 (Local Commercial District) to C-5 (General Commercial District) zoning classification on the tract of land which is hereinafter more particularly described in section one (1) hereof; authorizing changes to be made upon the official zoning map in accordance with this ordinance.

23. Hold a public hearing to consider Consolidated One-Year Action Plan Change 5, FFY 2004, and Change 1, FFY 2006; receive input from citizens, and authorize the Mayor and City Clerk to execute the implementing documents. Exhibits: Exhibit A: Consolidated One-Year Action Plan Change 5, FFY 2004, Change 1, FFY 2006, with the revised funding allocation summaries.

Tim Libby, Grants and Fiscal Officer for Housing and Community Development, stated they have a few projects that they would like to close out, one being the \$25,000 for the NRSA Interim Executive Committee. That committee has disbanded and the NRSA has been disbanded as well by HUD.

Haywood stated he went to a couple of meetings and there was a committee from Lawton View.

Libby stated that was the interim executive committee.

Haywood stated they were told that they had \$25,000 to spend.

Libby stated they were told that there was \$25,000 that would be provided to the NRSA. The interim executive committee was not the NRSA. That was an interim committee designed to try and assist the Lawton View neighborhood in creating an executive board that would act as the NRSA governing body. They were never successful.

Haywood stated that Mr. Libby was at the meetings and they came up with a project of putting up four welcome signs, that was the project. Those individuals came to those meetings once a month. He stated they thought that when Paul Fisher went out and got the design for those signs that it was a done deal, but then they took that \$25,000 away.

Libby stated they did not meet the requirements that were laid out in the plan. The plan was that the interim executive committee would assist in the development with actual members of the community. That is what the NRSA has to be, it has to be the members of that community trying to help themselves. He stated they never got past the interim executive committee.

Haywood stated Mr. Libby is talking about dealing with the partnership with the businesses in that area. Those individuals, Mrs. Mayfield, Mrs. Wooten and Mrs. Smith came faithfully to those meetings and at the end they were never told that the project was not a done deal.

Libby stated those people attended as members of the interim executive committee. In the actual NRSA it was stated clearly that for that money, which the City Council voted on, the NRSA had to establish a neighborhood committee that would then work on developing economic development projects to improve the neighborhood revitalization strategy area or Lawton View. That never came to pass, the interim executive committee could never get the Lawton View neighborhood to form a committee. All they did was have a little representation on the interim executive committee and they never got past that. They didn't meet the requirements set forth by the City Council.

Haywood stated the interim committee would come back and explain everything to the Lawton View Neighborhood Association. He stated that was a committee itself.

Libby stated that is a neighborhood watch association that never took over from the interim executive committee. Now it is irrelevant because the NRSA has been disbanded by HUD.

Haywood stated it is not a watch committee, it is Lawton View Improvement Neighborhood Association. The watch committee came under the umbrella of that particular association. He stated that those people were lied to and told that the project was a done project

Libby stated they told the people they had to form a committee and work together as a community to try and improve their area and that never happened. They never got past the stage of an interim executive committee.

Haywood stated that person that they had in charge was not trusted by the committee. She did not live in that

neighborhood and she could not come into that neighborhood and tell those people what to do. It had to come from that committee, Mrs. Wooten, Mrs. Mayfield and Mrs. Smith.

Mayor Purcell stated they are not getting anywhere tonight. He stated there obviously is more work to be done and he suggested that they table this item and Councilmember Haywood, Mr. Libby and the City Manager get together and try to work out these issues.

Libby stated the City Council is going to have to get involved because to be able to spend this money they would have to reapply to HUD to have the NRSA re-established.

Mayor Purcell staff can come back with a recommendation and the City Council can decide.

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

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Shoemate state there has been a lot of people in his area complaining about mosquitoes. He knows that we don t have a sprayer anymore, but he questioned if there was some way we could treat some of the neighborhoods with pellets. He stated some of the people in his area have become nervous since reading about the mosquito problems here.

Mitchell stated there is a person in the drainage maintenance division who is responsible for this issue. He stated if Councilmember Shoemate would give him the area he could ask staff to treat these areas. A person has to have certification to handle the chemical.

Shoemate stated he did call city staff, but a lot of people don t know who to call. He stated a city employee did come out and she was wonderful to work with.

Mayor Purcell suggested the media publish the number to call if there is standing water that needs to be treated.

Hanna stated he had the privilege of working with a crew from the park department at Western Hills School. He stated he has never worked with a better group of people.

Drewry reminded those who have not registered to vote that the deadline is Friday for those who wish to vote in the October 9th sales tax election.

Shanklin questioned if they have filled the position vacated by Dave Tracey.

Mitchell stated that position has not been filled.

Shanklin stated that 17th and D Avenue has a hump in the street. He stated if they could get that smoothed out it may help them in the election.

Patton thanked all of the military personnel here and abroad for all of their hard work. Nothing has happened in six years and he feels it is because of the good job they are doing in Iraq and Afghanistan. He would like to remember those people and their families.

Haywood thanked Pastor Logan, Galilee Missionary Baptist, and the Oklahoma Correction Agency for going around to different areas and trimming trees. He stated if not for NRSA and these types of individuals, Lawton View would not have improved like it has. He also thanked Wichita Mountain Prevention Center and Rick Lowe.

Mitchell stated at the first of the meeting he distributed a revised fact sheet with attachments. This is an informational sheet for the election next month with a list of streets that the Council provided to staff. He stated he will be at the OML Conference in Tulsa on Wednesday and Thursday. He will be back in the office on Friday afternoon.

The Mayor and Council convened in executive session at 6:37 p.m. and reconvened in regular, open session at 7:28 p.m. Roll call reflected all members present.

EXECUTIVE SESSION ITEMS

24. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending lawsuit in the U.S. District Court for the Western District of Oklahoma, Hedy Jackson vs. City of Lawton, Case No. CIV-06-813-D; and if necessary, take appropriate action in open session. Exhibits: None.

Vincent read the title of item 24.

MOVED by Haywood, SECOND by Warren, to appoint Shanklin and Drewry as the City representatives in the event of a settlement conference. AYE: Shanklin, Patton, Haywood, Warren, Shoemate, Hanna, Drewry, Jackson. NAY: None. MOTION CARRIED.

25. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending litigation of case number CJ-2007-659, concerning 718 SW 46th, and if necessary, take appropriate action in open session. Exhibits: None.

Vincent read the title of item 25.

MOVED by Shoemate, SECOND by Hanna, that the City of Lawton accept a quit claim deed from Lontana and John Denning for the property located at 718 SW 46th Street and authorize the Mayor and City Clerk to execute the necessary documents and authorize the City to proceed with demolition of any dilapidated structures thereon. AYE: Patton, Haywood, Warren, Shoemate, Hanna, Drewry, Jackson, Shanklin. NAY: None. MOTION CARRIED.

26. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending workers compensation claim of Roger Parks, and if necessary, take appropriate action in open session. Exhibits: None.

Vincent read the title of item 26.

MOVED by Warren, SECOND by Patton, to authorize the City Attorney to negotiate a settlement in Workers Compensation Case of Roger Parks vs. City of Lawton and if successful return to City Council for approval. AYE: Haywood, Warren, Shoemate, Hanna, Drewry, Jackson, Shanklin, Patton. NAY: None. MOTION CARRIED.

27. Pursuant to Section 307B.3 & D, Title 25, Oklahoma Statutes, consider convening in executive session to discuss appraisals and possible sale of City property located at 1210 SW G Avenue, 617 SW 26th Street, and 1706 SW B Avenue, and if necessary, take appropriate action in open session. Exhibits: None.

Vincent read the title of item 27.

MOVED by Patton, SECOND by Haywood, to authorize the City of Lawton to sell the previously declared surplus property at 1210 SW G Avenue, Lawton, Oklahoma, at public auction and set the minimum bid at \$1,000. AYE: Warren, Shoemate, Hanna, Drewry, Jackson, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

MOVED by Drewry, SECOND by Haywood, to authorize the City of Lawton to sell the previously declared surplus property at 617 SW 26th Street, Lawton, Oklahoma, at public auction and set the minimum bid at \$2,000. AYE: Shoemate, Hanna, Drewry, Jackson, Shanklin, Patton, Haywood, Warren. NAY: None. MOTION CARRIED.

MOVED by Warren, SECOND by Hanna, to authorize the City of Lawton to sell the previously declared surplus property at 203 SW 17th Street and 1706 SW B Avenue, Lawton, Oklahoma, at public auction and set the minimum bid at \$15,000. AYE: Hanna, Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate. NAY: None. MOTION CARRIED.

There being no further business to consider, the meeting adjourned at 7:34 p.m. upon motion, second and roll call vote.

/s/ John P. Purcell, Jr.
JOHN P. PURCELL, JR., MAYOR

ATTEST:

/s/ Traci Hushbeck
TRACI HUSHBECK, CITY CLERK