

Meeting of 2007-9-25 Regular Meeting

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
SEPTEMBER 25, 2007 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor John Purcell, Jr. (arrived @ 6:13 p.m.) 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 6:01 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Pastor Bill Todd, Centenary United Methodist 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 (arrived @ 6:04 p.m.)
Jeff Patton, Ward Six
Stanley Haywood, Ward Seven
Randy Warren, Ward Eight

ABSENT: None

AUDIENCE PARTICIPATION:

Susan Ferguson, 2804 NW 25th, invited the City Council to an AKC Dog Show which will be held in Lawton on October 20th and 21st at the Comanche County Fairgrounds.

Haywood stated at the last meeting he got into it with Tim Libby with the Housing and Community Development Division. He stated it was the wrong place to argue with someone pertaining to NRSA and the \$25,000. He stated he needs this in his area and will ask the City Council to reapply for this funding. He wanted to apologize to Mr. Libby and he will do this in a different location next time. He has already apologized to those in Lawton View for not picking up what NRSA meant.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL MEETINGS OF AUGUST 21 AND SEPTEMBER 11, 2007.

MOVED by Hanna, SECOND by Warren, to approve the minutes of August 21 and September 11, 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.

Mayor Pro Tem Jackson requested item #2 be considered separately. Warren requested item #6 and Shanklin requested item #19 be considered separately.

MOVED by Haywood, SECOND by Drewry, to approve the Consent Agenda with the exception of items #2, #6 and #19. 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 the resolution authorizing the City Attorney to file a friendly suit for the claims which are over \$400.00: Terin Madia in the amount of \$574.00 (**Resolution No. 07-121**), Bill and Holly Ryans in the amount of \$2,304.00 (**Resolution No. 07-122**), Jerry and Kellie Cunningham in the reduced amount of \$4,343.66 (**Resolution No. 07-123**), Sonya DeAugustine in

the reduced amount of \$9,470.98 (**Resolution No. 07-124**) and Alfred And Margaret Williams in the reduced amount of \$458.04 (**Resolution No. 07-125**). Exhibits: Legal Opinions/Recommendations, Resolution No. 07-___, Resolution No. 07-___, Resolution No. 07-___, Resolution No. 07-___, Resolution No. 07-___.

2. Consider the following damage claims recommended for denial: Gary A.S. and El Dena Ferrell in the amount of \$596.98 and Herbert Derricott in the amount of \$191.49. Exhibits: Legal Opinions/Recommendations.

MOVED by Warren, SECOND by Patton, to deny the damage claim of Gary A.S. and El Dena Ferrell in the amount of \$596.98. AYE: Warren, Shoemate, Hanna, Drewry, Jackson, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

Vincent stated Mr. Derricott filed a claim in the amount of \$191.49 for reimbursement of lien fees as a result of mowing some property that he purchased through a tax sale. He stated by statute we are not allowed to file the statement of cost until thirty days after notification to the property owners listed on the County Treasurer rolls. He stated in the interim of that thirty days, Mr. Derricott was told by the treasurers office that there were no outstanding liens. However the City s lien was filed pursuant to statute. He stated there is no negligence on the part of the City. There has to be negligence on the part of the City in order for there to be any type of reimbursement.

Warren stated he spoke with Mr. Derricott and he has an issue, but he does not think that issue is with us. There is an ongoing issue with a lot of these properties where things aren t being handled or explained properly at the county level. That is where these problems arise. Somehow the county has got to come up with a way where a property purchaser can know instantly what has been filed. He hopes that someday we can figure out a way to work with the county to fix this problem.

Vincent stated according to state statute, we have to wait thirty days after the mailing of the cost to certify the cost to the County Treasurers office. That was recently put into the state statute within the last couple of years. That has created part of this problem. We could seek assistance from our state legislators to possibly streamline this process.

Warren stated he is not in favor of paying this but he is in favor of trying to figure out a way to help people in the future where this won t happen anymore.

Vincent stated Senator Barrington has visited his office and has expressed an interest in helping us.

Herbert Derricott, 6212 NW Cheyenne Drive, stated there is a problem. It doesn t bother him that he had to pay the \$191, his issue is that when he purchased the property he was told that all the city and county taxes were paid. He got a call on June 29th to pick up the deed. When he went to the Treasurers office he got a piece of paper that had the taxes that the City had tacked on for mowing the grass. He does not feel this is right. He is going to get with his State Representative. He stated when he goes to buy something he expects to pay for it right there and not have any surprises. He stated the Treasurer did not have accurate information because the County Clerk does not have any way to talk with the Treasurer. He stated many people are having the same complaint.

Jackson stated we need to recover the taxpayer dollar and every Councilmember is being called about high grass and debris and we move as quickly as possible to get this taken care of and also recover these costs. He appreciates the efforts of Mr. Derricott and hopes this will urge the computerization at the county.

Mr. Derricott stated it just bothered him that he was told a certain price and then additional charges were tacked on.

Jackson suggested Mr. Derricott be at the County Commission meeting the next Monday and urge them to get their computer system set up.

Mr. Derricott stated he has talked with Mr. Kirby and now he will take it farther up the line. He stated he has certificates on eleven pieces of property and he has been cutting the grass on this property even though he does not own the property. He understands the taxpayers have to recoup their money.

MOVED by Warren, SECOND by Drewry, to deny the damage claim of Herbert Derricott in the amount of \$191.49 and ask staff to do what they can to see if we can work with the County or legislature to change the laws. AYE: Shoemate, Hanna, Drewry, Jackson, Patton, Warren. NAY: Shanklin. ABSTAIN: Haywood. MOTION CARRIED.

3. Consider adopting a resolution ratifying the action of the City Attorney and the City Manager in directing our third party administrator to make payment on the judgment in the Workers' Compensation case of Ronnie Walker in the Workers' Compensation Court, Case No. 2006-14774 A. Exhibits: **Resolution No. 2007-126**.

4. Consider adopting a resolution ratifying the action of the City Attorney and the City Manager in directing our third party administrator to make payment on the judgment in the Workers' Compensation case of John Chelenza in

the Workers' Compensation Court, Case No. 2006-04437 A. Exhibits: **Resolution No. 2007-127.**

5. Consider adopting a resolution ratifying the action of the City Attorney and the City Manager in directing our third party administrator to make payment on the judgment in the Workers' Compensation case of Robert Martin in the Workers' Compensation Court, Case No. 2006-08894 K. Exhibits: **Resolution No. 2007-128.**

6. Consider renewing the agreement between the Board of County Commissioners of Comanche County and the City of Lawton for library service to Comanche County residents living outside the City of Lawton. Exhibits: Agreement on file in City Clerk s office.

Warren stated there has been an ongoing issue in the past with the amount. He questioned where we were at compared to last year.

Mitchell stated the amount has been the same the previous three years.

Warren stated the County has found the money to do a lot of things and it would seem that if the city is operating a library that benefits every individual in the county that we should get an increase every year. It costs us more every year to operate that library. He would hope that every year the County Commissioners would figure some cost of living increase every year.

David Snider, Library Director, stated when he contacted Commissioner Kirby to verify the amount of money that was in the budget, Commissioner Kirby stated he hoped to go up next year.

Mitchell stated the estimated cost to provide that service is about \$80,000.

Snider stated it would be about \$80,000 to \$85,000 based on the same rate as city residents.

Warren stated they should be able to find some way to get a little bit of an increase every year.

Snider stated he requested between \$58,000 and \$59,000, based on the rate that the City pays. He stated they have gotten requests from people in the county for the mobile book program. He does not have the staff or time to reach outside of the city limits.

Shanklin questioned if there were 39,000 residents in the county.

Snider stated there are approximately 4,000 outside of the city limits.

Mayor Purcell stated there has never been an increase since this has started.

Jackson questioned who actually asks for the increase.

Snider stated he goes to the excise board and makes the request.

Jackson stated the request should come from management or the City Council.

Mitchell stated he does not get much reaction from the County.

Jackson suggested they agenda the request and force the issue over to the County from the City Council as a whole.

Patton stated this should not be an arbitrary number they come up. Why should the citizens of Lawton be paying a higher rate than the county residents.

MOVED by Warren, SECOND by Shoemate, to renew the agreement between the Board of County Commissioners of Comanche County and the City of Lawton for library service to Comanche County residents living outside the City of Lawton. AYE: Hanna, Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate. NAY: None. MOTION CARRIED.

7. Consider approving contracts for School of the Arts , Fall 2007 semester for Steven Scott Smith (\$ 630), Lawrence Johns (\$ 540), Kenneth Hobbs (\$ 270), and Sandra Dunn (\$ 270) faculty members for the project. Total amount for fall semester stipends is \$ 1,710.00. Exhibits: Contracts on file in City Clerk s office.

8. Consider approving an amendment to the current contract and accepting the increase of the grant from the Oklahoma Department of Human Services for the Retired and Senior Volunteer Program (RSVP) for Fiscal Year 2007-2008 funding. Exhibits: Contract is on file in the City Clerk s Office.

9. Consider approving a Memorandum of Understanding between the City of Lawton, Public Works Department and Public Service Company of Oklahoma (PSO) for working on customer-owned high voltage facilities and authorize the Mayor to execute the document. Exhibits: Memorandum of Understanding Talking Points and Memorandum of Understanding.
10. Consider acknowledging receipt of a Tier I permit from the Oklahoma Department of Environmental Quality for the construction of 370 linear feet of eight (8) inch PVC water line and all appurtenances to serve the EZ Go Store, located in the 6400 block of NW Cache Road, in a part of the SW/4 of the SW/4 of the SW/4 of Section 21, T-2-N, R-12-W, I.M., Comanche County, Oklahoma. Exhibits: Permits to Construct on file in the City Clerk s office.
11. Consider acknowledging receipt of a Tier I permit from the Oklahoma Department of Environmental Quality for the construction of 980 linear feet of twelve (12) inch PVC water line and 1,000 linear feet of eight (8) inch PVC water line and all appurtenances and a Tier I permit for the construction of 417 linear feet of eight (8) inch PVC gravity sewer line and all appurtenances to serve the Toyota Dealership, located at NW 72nd Street and Quanah Parker Trailway, in a part of the SE/4 of the SE/4 of Section 20, T-2-N, R-12-W, I.M., Comanche County, Oklahoma.
Exhibits: Permits to Construct on file in the City Clerk s office.
12. Consider authorizing the Mayor to execute the recertification application for the Community Rating System of the National Flood Insurance Program. Exhibits: Recertification Application on file in the City Clerk s Office.
13. Consider approving the construction plat for The Enclave, Part 2, subject to conditions. Exhibits: Plat Map.
14. Consider approving the record plat for Wal-Mart No. 5071. Exhibits: Plat Map.
15. Consider awarding contract for AT&T Long Distance Service Agreement. Exhibits:
Contract on file in City Clerk s Office.
16. Consider awarding a contract to J. L. Walker Construction Inc., Oklahoma City for the Lawton City Offices Demolition Package 1607G50, Original Lawton High School, Lawton, Oklahoma, and authorize the Mayor and City Clerk to take appropriate action as deemed necessary. Exhibits: Recommendation letter from Gary Armbruster, Meyer Architecture Plus, Bid Packets from J. L. Walker Construction Inc. & Midwest Wrecking & Demolition.
17. Consider awarding (CL08-006) Liquid Chlorine to Brenntag Southwest, Inc., of Sand Springs, OK. Exhibits: Department recommendation, abstract of bids.
18. Consider awarding (CL08-010) Nuisance Abatement West Side to TCB Services of Chattanooga, OK. Exhibits: Department recommendation, abstract of bids.
19. Consider awarding (RFPCL08-004) Property Insurance to Towe, Hester & Erwin, L.L.C., of Lawton, OK. Exhibits: Department recommendation.

Shanklin questioned who the bid packets were mailed to. He talked to about twelve insurance people and they knew nothing about it.

Jim Scholes, Human Resources Director, stated they only received one complete bid, two no bids and three non responses.

Shanklin questioned how much time a bidder has to respond.

Jim Russell, Safety and Risk Officer, stated the bid packets went out at the beginning of August and they were received

Shanklin questioned if anyone in Lawton was sent a bid packet other than the winner.

Russell stated Heinz, Kline, Watson from Lawton.

Shanklin stated they claim they did not get it.

Russell stated they received a no response from them.

Shanklin questioned who had the insurance right now.

Russell stated Chubb Insurance through Towe, Hester and Erwin.

Scholes stated they have had it the past three years and the price actually came down this year.

Shanklin questioned if they would be satisfied if everything they put out they only received one bidder.

Scholes stated he would like to have more, but it is out of his control.

Shanklin stated this is kind of a blight to receive only one response. He cannot vote for this. You need some competition on \$500,000 - \$600,000.

Scholes stated this is \$150,000 per year for three years.

Mayor Purcell stated you cannot force people to bid.

MOVED by Drewry, SECOND by Shoemate, to award (RFPCL08-004) Property Insurance to Towe, Hester & Erwin, L.L.C., of Lawton, OK.. AYE: Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Hanna. NAY: None. MOTION CARRIED.

20. Consider awarding (RFPCL08-007) City Employee Accidental Death Insurance to International Insurance Brokers, LTD, of Tulsa, OK, for Zurich American Insurance Company of Dallas, TX. Exhibits: Department recommendation.

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

22. Consider approval of payroll for the period of September 10 - 23, 2007.

OLD BUSINESS ITEMS:

23. Consider the following damage claim recommended for denial: Margaret A. Purdy. Exhibits: Supplemental Claims Memorandum/Recommendation.

Frank Jensen, Deputy City Attorney, stated the City Council has seen this claim before involving an auto accident between a City of Lawton garbage truck and a vehicle driven by Margaret Purdy. It occurred at SW 14th Street and SW Garfield. The claim was tabled from the agenda two weeks ago so that staff could conduct additional interviews of three children who were outside in a yard near the scene of the accident. Based upon those interviews and the interviews of the truck driver, the police officer and Ms. Purdy's mother, staff continues to recommend denial of the claim.

Haywood stated he and Mr. Jensen went to Ms. Purdy's house and her mother said that the employee was on the ground. He stated they also went and talked with the kids. Kids lose their memory. He stated there were statements taken and photos taken. He stated this has not been investigated like it should have. He drove up after they called and the driver came to him and said that he didn't look to the left. Ms. Purdy told him that the guy was on the truck. He stated the police officer never did talk to Ms. Purdy while he was there. He stated he is the key witness. Ms. Purdy was so upset and it took her a year to bring this claim. She did not want to get the refuse employees in trouble.

Jensen stated he should not be beat on this claim. The officer came to his office and he has no reason to lie. The burden of proof is on Ms. Purdy and the evidence they have is grounds for denial. They believe that staff did conduct an adequate investigation. If he thought they had a basis to recommend approval he would. He stated he believes the officer was honoring his oath in the way he did his collision report, he believes the truck driver was being truthful when he interviewed him and he believes the statement of Ms. Purdy's mother when she initially said that she saw the second employee of the truck on the ground. His obligation is to base his recommendation on the facts of the opinion.

Haywood stated Ms. Purdy was offered \$500 but she did not want it. He never did look at what the driver said because he knew that the guy was truthful. The employee told her that the City would pay for his vehicle.

Jensen stated this collision occurred between the back of the garbage truck and the front end and side of Ms. Purdy's vehicle. He does not believe that the second employee was on the back of that truck when the collision occurred. He never heard anything about the employee jumping off.

Vincent stated her total claim was filed in the amount of \$3,500. That is the most this Council could consider.

Shanklin questioned how much money Ms. Purdy was out of her own pocket.

Haywood stated it is \$1,776.50 from the hospital and \$500 from her insurance.

Vincent stated that is a total of \$2,276.50 for her out of pocket expense.

Shanklin stated those trash trucks are hustling and moving fast and they could have made this error. He suggested they pay Ms. Purdy for the expenses she was out of pocket.

MOVED by Haywood to pay Ms. Purdy \$5,824.44

MOVED by Haywood, SECOND by Shanklin to approve the damage claim of Margaret A. Purdy in the amount of \$2,276.50. AYE: Jackson, Shanklin, Patton, Haywood, Hanna, Drewry. NAY: Warren, Shoemate. MOTION CARRIED.

Drewry stated she watched the refuse trucks as they go through her neighborhood and they are very careful.

Shoemate stated he would echo the statements of Councilmember Drewry. He stated these employees are very polite and provide great service.

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

Tim Libby, Grants and Fiscal Officer for Housing and Community Development, stated Change One is \$75,000 which is money that was for the CDBG Home Buyers Program that is not moving. Staff would like to reapportion those funds into the Emergency Housing Improvement Program which is another popular program. They currently have a waiting list for this money to be freed up.

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

MOVED by Shanklin, SECOND by Haywood to approve Change 1 to the Consolidated One-Year Action Plan, FFY 2006 and authorize the Mayor and City Clerk to execute the implementing documents. AYE: Shanklin, Patton, Haywood, Warren, Shoemate, Hanna, Drewry, Jackson. NAY: None. MOTION CARRIED.

25. Hold a public hearing to consider the proposed Change 5 to the Consolidated One-Year Action Plan, FFY 2004; receive input from citizens; approve Change 5 and authorize the Mayor and City Clerk to execute the implementing documents. Exhibits: Exhibit A: Consolidated One-Year Action Plan Change 5, FFY 2004, with the revised funding allocation summaries; Exhibit B: Project Descriptions; Exhibit C: Extract: Priorities.

Libby stated the NRSA was dissolved and that money has been freed up and staff is recommending that this \$25,000 be put into the Emergency Housing Improvement Program.

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

MOVED by Drewry, SECOND by Haywood to approve Change 5 to the Consolidated One-Year Action Plan, FFY 2004 and authorize the Mayor and City Clerk to execute the implementing documents. AYE: Patton, Haywood, Warren, Shoemate, Hanna, Drewry, Jackson, Shanklin. NAY: None. MOTION CARRIED.

NEW BUSINESS ITEMS:

26. Receive a report from Emergency Communications regarding technical problems with the Sentinel Telephone System. Exhibits: None.

Jackson stated knowing how much work was involved in the combining of the E-911 system with the County and the assurances made to a lot of people, he felt a little uneasy about what was transpiring with the difficulties with this system. He felt someone should bring them up to date on what is going on.

Chief Ronnie Smith, Lawton Police Department, stated the Lawton Constitution received a letter in the mail stating that there were problems with the system. They have been looking at the system and small problems have been occurring. He stated three times now at exactly 12:03 a.m. the system goes down. This has happened three times. He stated all of the rest of the problems have been corrected. He stated this is a new system and they were doing a lot of things at one time which created a lot of the problems. He stated Derrell Morgan, Emergency Communications, kept him informed and he eventually contacted the City Manager and requested a meeting be set up with AT&T. They did have a positive meeting and by the end of the next day about 90% of the problems were resolved. The system is running fairly well now.

Jackson questioned why they changed the system. Is this something they were required to change?

Smith stated this system is digital and has more upgrades.

Mitchell stated he understood that the old system will be integrated into the new system and after a couple of years the old system will not even be available. The old system is being phased out.

Smith stated another advantage of the new system is that if there is a disaster in that building, we could flip a switch and dispatch out of Woodward, Oklahoma City or other places.

Jackson questioned how many dispatchers work at the 911 center on behalf of Comanche County.

Smith stated they ended up transferring eight dispatchers. There is no more city and county, it is now city/county dispatch system where everyone does everything.

Drewry questioned when the system goes down at 12:03 a.m., how long does it stay down?

Smith stated it is down a minute or two. He stated there is something happening that is knocking it out for this short period of time.

Jackson questioned how the response is going from the county.

Smith stated it is going great. He has had just minor complaints from the smaller towns in the county.

Warren stated during these issues, this has never been an issue of safety. There has never been a problem with dispatching officers or answering the phones. It has been issues with the convenience of the system to the dispatchers. At no point were the citizens not receiving service or in trouble.

Mitchell thanked Deano Cox with AT&T for bringing everyone in for the meeting.

27. Discuss City of Lawton sidewalk specifications and take appropriate action if necessary. Exhibits: None.

Jackson stated we just finished the construction of Flowermound Road from Lee to Rogers Lane and there are numerous breaks and cracks coming up on that sidewalk. He also went down 82nd Street and that sidewalk is far worse than Flowermound Road. He thinks this is a design and specification problem. He stated Mr. Ihler told him that there was no rebar, mesh or wire involved in the sidewalks at all on this project. The responsibility of repairing these sidewalks is going to fall to the responsibility of the taxpayers over the years. He stated they need to try and change these specifications to require rebar or anything to shore them up.

Jerry Ihler, Public Works Director, stated the City of Lawton specifications do require wire mesh as well as a 2-inch sand cushion or 2 inches of limestone rock for all of the sidewalks built by the City of Lawton or our contractors.

This was an Oklahoma Department of Transportation contract and ODOT uses their own set of standards which does not have rebar, wire mesh or a sand cushion. He stated staff did meet with Bob Rose at ODOT and discussed with him that on all future projects the sidewalks would be built using City of Lawton standards versus ODOT standards. He stated he believes they have resolved the issue for future projects.

Patton questioned if ODOT was receptive to that recommendation. Obviously there would be additional cost involved.

Ihler stated ODOT was receptive to that recommendation, however they did indicate that the rock, sand cushion or wire mesh steel could possibly be considered a non-participating item and the City of Lawton would have to pay 100%.

Mayor Purcell questioned if there was any way they could get ODOT to agree to not put grass between the curb and the sidewalk on the 12 inches. He stated that is the biggest mess on Flowermound road when they mow.

Ihler stated that is more of a safety issue with regards to the citizens walking next to a lane of traffic. He stated they would like to keep a separation. He stated the engineering division has discussed what a problem that is becoming. If that is the wishes of the City Council, they can have those future designs adjacent to the curbing.

Mayor Purcell stated it is a maintenance nightmare for the City of Lawton to maintain.

28. Receive an update on the 2nd Street Enhancement Project. Exhibits: None.

Shanklin stated he has been asked when this is going to happen.

Mitchell stated staff submitted a Section 108 Grant Application in December 2006 and they thought they would hear something by now. They did hear about the BEDI Grant that was approved, but the Section 108 Grant Application is still in the Washington, D. C. office and they are hoping in the next 30-45 days we will hear if that application has been approved. If they hear the application has been approved, staff will bring a recommendation to the City Council. If it is approved there will be one course of action and if it is not approved there will be another course of action.

Shanklin questioned if the application is approved, what will be the course of action?

Mitchell stated they have submitted final plans to ODOT and they think those will be approved. Once they get all the paper work done on the Section 108 Grant Application they will be ready to proceed with the bid letting for a portion of 2nd Street.

Shanklin questioned if Ruhl & Ruhl wants this done.

Mitchell stated yes.

Shanklin questioned if this was going to be enough money. Didn't we get \$10 million to buy these people out?

Mitchell stated no. Mr. Shanklin is talking about the letter of credit. They were able to secure a letter of credit through three local banks. That letter of credit is an advance that will allow them to proceed with acquiring the property. That has nothing to do with 2nd Street.

Shanklin stated he meant the TIF. That is where people are concerned. He remembered when former Councilmember Glenn Devine placed an item on agenda to make everything from 3rd Street to Railroad commercial. There are people down there who are being treated as though their property is residential. He understood that this has been corrected.

Mitchell stated they are appraising property based on the land use plan that was adopted by the Lawton Urban Renewal Authority. All of those meetings are public and anyone can attend those meetings if they choose.

Shanklin questioned if everything down there is commercial.

Mitchell stated not everything. He stated he would bring a map to the next meeting that shows the land use plan adopted by LURA that is being used by the appraiser.

Shanklin stated he read that three parcels have been approved.

Mitchell stated LURA has approved approximately 28 appraisals and have signed contracts for about six of those and they will make offers on an additional six in a week or so.

Shanklin questioned if the City Council has to approve or disapprove these.

Mitchell stated no, it is LURA.

Shanklin requested that the newspaper report that the City Council will not have to approve or disapprove any offers.

Mitchell stated the City Council will be involved when they get to the point of approving the plans for 2nd Street and expending dollars to the TIF district.

Shanklin stated when a parcel has been approved and the owner has agreed to the price, will this be printed.

Mitchell questioned why they would print this.

Shanklin stated if he is sitting across the street or down the block, it would be very important to him.

Mitchell stated that property will be appraised at fair market value and make an offer based on fair market value.

Hanna questioned what will happen if they refuse the fair market value. Will it go to eminent domain?

Mitchell stated they talked about starting out with vacant and residential property on a voluntary basis and that is the way LURA is proceeding.

Shanklin questioned what recourse these people have if they don't like the offer.

Mitchell stated the owner can provide us with evidence that substantiates a different value and we have the ability to negotiate with those owners. For example, Coca-Cola may decide they want to get their own appraisal and submit that appraisal to document their estimate of what their property is valued.

Haywood stated any resident can do the same thing. He stated if this enhancement project continues, with regards to the BEDI and Section 108 loan, what percentage of people from low/moderate income have to be hired for this project to continue.

Tom Aplin, Assistant Director of Housing and Community Development, stated given the number of dollars going into this project from the Section 108 loan, Section three will apply and require that jobs be held open for low/moderate income individuals in the community. They have not established a mechanism to make that happen yet, but it will be a requirement for the 2nd Street project. He is not sure how the BEDI funds will impact the ultimate development of that commercial district.

Haywood stated he would like to go on the record to recommend that we hire low/moderate income people to work in that particular area. He would like for them to go through the Northside Chamber of Commerce to screen the applications.

Jackson stated he hoped the ultimate decision would be by that contractor who has to pay the bills.

Haywood stated if the contractor does not hire these people then we lose that money.

Mitchell stated that part of the purpose of this redevelopment is to generate new jobs, opportunities for jobs and employment for those people living in our downtown. Not only for those construction projects for 2nd Street but also those jobs we hope to create by companies investing in our downtown.

Shanklin questioned if the right of eminent domain is included in this project.

Mitchell stated LURA has the power of eminent domain but LURA has said that they intend to proceed with acquisition on a voluntary basis.

Shanklin stated there are some people concerned over the north and south sides of 2nd Street and Gore. He stated the City Council is not going to be involved in the decision of whether someone gets \$92,000 or the other corner gets \$105,000.

Mitchell stated they would not be involved in that part but the City Council would be involved when they get to the project development phase and borrowing money through the TIF District.

Shanklin stated he can remember when they rezoned some of that property from residential to commercial from 3rd Street to Railroad.

Mitchell stated that LURA has adopted a land use plan and all of that property is being appraised based on that land use plan. He will get Councilmember Shanklin a copy of that plan.

29. Consider the Consolidated Annual Performance and Evaluation Report (CAPER) for Federal Fiscal Year (FFY) 2006, receive a briefing on the CAPER, hold a public hearing to receive input from citizens, and approve the report for submission to HUD. Exhibits: CAPER is on file in the City Clerk's Office.

Aplin presented slides which covered the period of July 1, 2006 through June 30, 2007. He stated as of July 1, 2006, the amount of money available as they began the year was \$179,165 for administration and funds available to projects were \$1.7 million. He stated there were 32 projects funded and of those 12 have been completed. He stated looking at CDBG housing activities, the number of activities completed were 96 projects.

Libby presented slides regarding the HOME program. He stated they had a little over \$1 million authorized for the HOME Investment Partnership Program for projects and \$150,000 for the administration. He stated they assisted 31 households and put twenty new families into homes this year. He stated this year they already have a substantial waiting list. They also rehabilitated six homes. The annual performance report shows they have an unexpended balance of around \$600,000. He stated 90% of 2006 funds are already committed.

Aplin stated the CAPER was presented to the City Planning Commission on September 13, 2007. The CPC did recommend approval of the proposed CAPER for submission to HUD which is due on September 28th.

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

MOVED by Haywood, SECOND by Drewry, to approve the report to be submitted to HUD. AYE: Haywood, Warren, Shoemate, Hanna, Drewry, Jackson, Shanklin, Patton. NAY: None. MOTION CARRIED.

30. Consider an ordinance pertaining to offenses and crimes, amending Section 16-3-1-321, Division 16-3-1, Article 16-3, Chapter 16, Lawton City Code, 2005, by requiring community service to be served upon conviction of any littering violation and setting forth punishments for the same, providing for severability, and declaring an emergency. Exhibits: Ordinance No. 07-____.

Vincent stated with the current code it is hard for the Municipal Court Judge to require community service and at the same time have a \$750 fine. Therefore staff came up with this ordinance which still imposes a \$750 fine but the Judge would still have the ability to order community service not to exceed 30 hours and for each six hours it would reduce the fine by \$100 for a minimum payable of \$250. If the person does not perform the community service then the person has to pay the full fine. He stated staff also cleaned up several other sections.

MOVED by Warren, SECOND by Drewry, to adopt **Ordinance 07-57**, waive the reading of the ordinance, read the title only, and declaring an emergency. AYE: Warren, Shoemate, Hanna, Drewry, Jackson, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

(Title read by City Attorney) Ordinance 07-57

An ordinance pertaining to littering prohibited amending Section 16-3-1-321, Division 16-3-1, Article 16-3, Chapter 16, Lawton City Code, 2005, by requiring community service to be served upon conviction of any littering violation, providing for severability, declaring an emergency.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Warren stated he enjoyed the International Festival. He looks forward to next year.

Haywood stated he has received some calls from some citizens who are currently living on gravel streets. He stated hopefully they can get something done if the sales tax passes. He stated the annual NAACP Banquet will be held on Saturday at 6:00 p.m. at Gunners Inn.

Shanklin stated he mentioned the problems at 17th Street and D Avenue several weeks ago. He stated the intersection is getting repaired and that should change some people's minds. He stated the 1200 block of I Avenue has been overlaid and crews did a great job.

Shoemate invited everyone to the opening of the National Museum of the Comanche Nation on Thursday at 3:00 p.m.

Mayor Purcell thanked the Lawton Police Department for hosting the Kids and Cops Picnic. He thanked staff for the success of the International Festival. He stated thirty people were sworn in as new citizens. Nine were military. He stated if anyone is interested in donating to the sales tax campaign, they need to send a check to the Grow Comanche County Committee for 2007. They need some money to pay for ads in the paper.

Mitchell distributed a letter updating the City Council on the City Hall project. Phase I is being completed by Lawton Public Schools who received \$400,000 through the Centennial Commission. He stated the architect is suggesting they spend the money to complete the sprinkler system and other miscellaneous work. He hopes to have our Phase II project ready to go out for bid in January. He stated the steel has been erected incorrectly and will be removed and reset. This will not change the timeline of the project. He stated the Library Big Read project will kick off this weekend at the Museum of the Great Plains. He stated he has asked Chief Ronnie Smith to give the City Council an update on the crime rate for burglaries.

Chief Smith stated they looked at comparing Lawton with Killeen, Texas since they have about the same population and also have a military base. He stated in Killeen for a seven month period is 1,414 burglaries. In that same period of time in Lawton, we have 639. We are less than half for the same type of population. The article in the paper is not putting us in a good light. Officers are putting burglars in jail every day and he feels that the citizens needed to know that they are working hard to keep it safe.

The Mayor and Council convened in executive session at 7:59 p.m. and reconvened in regular, open session at 8:57 p.m. Roll call reflected all members present excluding Shanklin.

EXECUTIVE SESSION ITEMS

ADDENDUM:

1. 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 the addendum.

MOVED by Jackson, SECOND by Warren, to adopt **Resolution 07-130** authorizing the settlement of a case pending in U.S. District Court, Hedy Jackson vs. City of Lawton, Case No. CIV-06-813-D in the amount of \$10,000 and authorize the Mayor, City Clerk and the City Attorney to execute all necessary documents and transfer the case to Comanche County District Court for the purpose of payment. AYE: Drewry, Jackson, Patton, Haywood, Warren, Shoemate, Hanna. NAY: None. MOTION CARRIED.

31. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the evaluation review of Larry Mitchell, City Manager, and if necessary, take appropriate action in open session.

Mayor Purcell read the title of item 31. He stated it was the consensus of the City Council that Mr. Mitchell is doing an outstanding job.

There being no further business to consider, the meeting adjourned at 8:59 p.m. upon motion, second and roll call vote.

JOHN P. PURCELL, JR., MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK