

Bank Foundation for planting throughout the City of Lawton area. Exhibits: Letter of Grant Notification from the Greater Oklahoma City Tree Bank Foundation and list of trees requested.

6. Consider accepting donation of funds donated by Wal-Mart, 1002 NW Sheridan Road, for Lawton Police Department Cops and Kids Picnic. Exhibits: None.

7. Consider accepting the NW 67th Street (Cache Road to Rogers Lane) Waterline Relocation Project #2008-7 as constructed by Luckinbill, Inc. and placing the Maintenance Bond into effect. Exhibits: None.

8. Consider granting a revocable permit to use a portion of the SW C Avenue right-of-way at 1001 SW C Avenue for an ADA accessible ramp. Exhibits: Application, Revocable Permit on file in City Clerk's Office and Aerial Photograph of Property.

Mayor Purcell stated that Councilmember Shoemate felt he could not participate in this vote and that is why this item was pulled off the consent agenda.

MOVED by Warren, SECOND by Haywood, to approve granting a revocable permit to use a portion of the SW C Avenue right-of-way at 1001 SW C Avenue for an ADA accessible ramp. AYE: Haywood, Warren, Hanna, Drewry, Burk, Shanklin, Patton. NAY: None. ABSTAIN: Shoemate. MOTION CARRIED.

9. Consider acknowledging receipt of a Tier I permit from the Oklahoma Department of Environmental Quality for the construction of 2,165 linear feet of 8-inch PVC waterline and all appurtenances to serve the Independence Place Apartments located at 3502 East Gore Boulevard in the SE/4 of the SE/4 of the SW/4 of Section 27, T2N, R11W, I.M., Comanche County, Oklahoma. Exhibits: Permit to Construct on file in the City Clerk's Office.

10. Consider acknowledging receipt of a Tier I permit from the Oklahoma Department of Environmental Quality for the construction of 2,090 linear feet of 10-inch waterline, 2,665 linear feet of 8-inch waterline and all appurtenances to serve Scissortail Development, Part 1 located 1/4 mile south of NE Cache Road and 1/4 mile west of NE Flower Mound Road in the S/2 of the NE/4 of Section 28, T2N, R11W, I.M., Comanche County, Oklahoma. Exhibits: Permit to Construct on file in the City Clerk's Office.

11. Consider extending the contract (CL07-012) Pest Control Services with Advanced Pest & Termite Services of Sterling, OK. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.

12. Consider awarding (CL09-016) Portable Litter Fence to Metta Technologies Inc. of Toledo, OH. Exhibits: Department recommendation, abstract of bids.

13. Consider awarding (CL09-011) Personal Soft Body Armor (Concealable) Vest to Special Ops Uniforms of Oklahoma City, OK. Exhibits: Department recommendation, abstract of bids.

14. Cancel contract CL08-059 Laboratory Services of Toxic Pollutants with Red River Environmental Laboratory & Consulting and allow staff to re-bid contract. Exhibits:
Department memo, fax from Red River Environmental Laboratory & Consulting.

15. Consider awarding (CL09-010) Tactical Body Armor (Level III A) Vest to Special Ops Uniforms of Oklahoma City, OK. Exhibits: Department recommendation, abstract of bids.

16. Consider awarding (CL09-015) Police Motorcycles to Proteam Harley-Davidson of Lawton, OK. Exhibits: Department recommendation, abstract of bids.

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

18. Consider approval of payroll for the period of November 3 - 16, 2008.

BUSINESS ITEMS:

Mayor Purcell requested that item #23 be considered next.

There were no objections by Council.

23. Hear the appeal of Central Baptist Church and Trinity Christian Academy from the decision of the Building Development Appeals Board and take appropriate action. Exhibits: Copy of the Appeal to the Building Development Appeals Board (Letter from Townsend & Associates dated 7/8/08); Copies of Lawton City Code, 2005, Sections 6-7-1-701 through 6-7-1-706; Copy of the By Laws of the Building Development Appeals Board; letter from J.W. Doolin dated 9/2/08 requesting appeal to Council; response letter from City Attorney's Office dated 9/11/08 regarding appeal to Council; letter from Phillip Townsend dated 10/27/08 and response letter from Douglas

Wellhouse dated 11/6/08. Unapproved Minutes of the Building Development Appeals Board are on file in the City Clerk's Office.

Doug Wellhouse, Supervisor of License and Permit Division, stated there are very few changes in code where you can make updates to an existing building. They are usually on a change of occupancy, additions or major alterations to that building. This appeal is for requirements of the existing building that will be occupied by Trinity Christian Academy (TCA) as an E occupancy. The existing building as it stands is an A-3, which has an occupant load of less than 100, and in most cases includes a Sunday school class. He stated if Trinity Christian Academy entered into this building they would consider this a change of occupancy because the church has always been an A-3 and now it would be a mixed occupancy with the addition of the Trinity Christian Academy. The school is up to grade 12, has a curriculum and they have certified teachers and tuition. He stated their calendar coincides with Lawton Public Schools so therefore staff considers them a school and is a change of use from an A-3 to an E and by code, they would have to meet all of the provisions of the least hazard occupancy which would be of their choosing. He stated upon evaluation they would send staff a list of items they plan to upgrade or improve in order to make the requirements of a mandatory safety evaluation. He stated the code is plain and simple.

Shanklin questioned if this code was universal.

Wellhouse stated municipalities adopt these certain codes. The international building code has been adopted in part by all fifty states and there are over sixty towns in Oklahoma that have adopted international codes.

Shanklin questioned if things are applicable in a ten story and two story building.

Wellhouse stated yes, it goes by code occupancy. There are different regulations because of occupancy and story height and also construction type 1, 2, 3, 4, 5. This building has a little bit of type 2, 3 and also type 5 which is combustible framing.

Shanklin questioned if that was the staff's assessment of the building.

Wellhouse stated yes and also the architect.

Shanklin stated it scares him that the architect and staff would have that much of a difference of opinion. He does not think staff would have as much education as the architect.

Wellhouse stated he is certified as a building plans examiner and a commercial building inspector from the International Code Council.

Drewry questioned if the code specifies the ages of the occupants.

Wellhouse stated the code says through grades twelve on educational use which is different from an A-3 occupancy.

Mark Mitchell, Fire Marshall, stated he and Mr. Wellhouse have worked together on this project from the beginning. He stated this is a similar process that Trinity Christian Academy went through in 2000 with First Baptist East when they either bought or leased a building from the church. He stated when they look at structures they have to determine the applicable use to determine what codes apply. The International Existing Building Code (IEBC) uses formulas so you can take an existing structure and come out with safety indicators to determine if the building will or won't work and if modifications need to be made. He stated when he did a walk through on the building he found some things that really concerned him as far as the structure. If they started grading, this building would be considered existing non-conforming with this current code, but it may have met code when it was built. They do not make people upgrade a building every time the code changes, so they go into an existing, non-conforming status, which is where this building would fall. The only recognized use the building has had since it was constructed was an A-3 which stands for assembly and a 3 category which is where a church would fall. Churches are allowed to have a certain level of educational activities going on that are accessory to that church use. He said the school is an educational use and they looked at that and determined it would be a change of use. He stated the Building Development Appeal Board determined that it was a change of use. Since that decision by the board, staff has been asking those with Trinity Christian Academy to submit a permit with a plan of correction based on the IEBC formula so that staff can review. He stated they have worked with the architect in the past and he has submitted this documentation on other projects. He stated the Appeals Board ruled that this was in fact a change of use.

Patton questioned what was the difference when Trinity Christian Academy moved into First Baptist East.

Mitchell stated it was a change of use and they had some issues with regards to the type of construction. That building was mostly non-combustible concrete beam construction. It took them a couple of years to come into compliance but they finally did. He stated with this building, the exterior was added on sometime after the original

construction. The interior is combustible timber type construction that would allow fire to spread much more rapidly.

Haywood questioned how they could correct this problem and make this work.

Mitchell stated he believes the solution is to file the permit and have the architect use that IEBC formula, do those calculations on the different aspects and safety features of that structure and find out where we actually are.

Mayor Purcell stated they have had two meetings with Mr. McKee since the appeals board ruling and they still have not gotten the Fire Marshall the information he needs. It was agreed that within a week they would get that form back to the Fire Marshall. He told Mr. McKee that the decision would come to this Council to make a decision tonight. They need to either uphold the appeals board or overrule the appeals board. He stated that staff wants to help, but they just don't have the information to help in accordance with the code.

Burk stated that he was discouraged that the proper forms were not filled out. He stated Mr. McKee has worked hand in hand with him to resolve this issue. They are really at a standstill on where they go from here. They just want this to be safe for the kids and they need to figure out what it will cost. Part of that building is being used differently than it was before. He feels that everyone supports that school being there. He questioned if the Council would overrule the appeals board, does the City of Lawton take that liability.

Vincent stated if the Council determines that the appeals board was wrong, the liability would not lie with the councilmembers individually, but could rest with the City of Lawton under certain circumstances.

Shanklin stated the appeals board has not met in eight or ten years. He questioned how those board members could be up to stuff any more than the Council.

Burk stated the board members are trades people who do this every day and it is staff's job to know this code.

Shanklin stated what would work in Dallas, St. Louis or Kansas City is not applicable in Lawton. They go up, we go out.

Mayor Purcell stated if they refuse to provide this information they are stuck.

Mike McKee, Trinity Christian Academy, read a prepared statement. (Attached). He understands the Council's concerns about not receiving the proper information that was requested. He stated the reason the information did not come is because there is a difference between the way a state licensed and certified architect looks at having to give information that is not required by the code that they meet. He stated under the category E, religious educational rooms and religious auditoriums which are accessory to places of worship in accordance with section 508.3.1 and have occupant loads of less than 100 shall be classified A-3 occupancies. He stated they are a unique entity that does meet the E criteria and also meets the A-3 criteria by 2006 IBC. They are a ministry outreach of this church.

Max Sasseen, property chairman for the Central Baptist Church, stated the three story building has been approved by the City of Lawton in its location and present set up. It is not uncommon to have 300-400 people in Sunday school. Central Baptist is not relinquishing control of the building and any uses of the building are under the control of the church. The church also carries \$3 million of liability insurance. He stated they have not received any update order by the City of Lawton. They asked for a list of items that they could improve to make the building safer and they are still waiting on the list. They have made some changes at the suggestion of the architect and some City Council members. They have added thirty-six additional smoke detectors to the building in addition to their automatic fire system. They have added two fire extinguishers to each floor in the education building. They have purchased twelve additional emergency back up lights and have ordered smoke detectors to be placed in every air conditioner in the building. He stated there has been no change to the actual activities going on in that space, there is just more of the same. They are doing nothing to trigger a change of use. The only difference is the subject matter taught in the classroom.

Mayor Purcell stated he would like to clear up some things. He stated the reason city staff cannot give TCA a list is because staff needed that form and information from the architect.

Mr. Sasseen stated they disagree with that statement.

Mayor Purcell stated TCA may have done everything they needed to do, but staff cannot tell. He stated the difference is that now they have children in the building five days a week, six or seven hours a day. It is not the fact that they are teaching math and science.

Mr. Sasseen stated everyone is in agreement with regards to the building code that if you are safe for an activity for one hour, you are approved for all day use.

Dr. Keith Miles, Sr. Pastor at Central Baptist Church, stated when he invited TCA to come to Central Baptist Church he examined what they were doing and they are completing the very same things they do at the church. The school is a part of their ministry and they answer to him. They have always desired to upgrade their ministries in education. He stated he does not believe there is a place for the City of Lawton to tell them there is a difference when there is no difference. They would like to have the freedom to do ministry at Central Baptist Church.

Haywood questioned how many classrooms the church has.

Dr. Miles stated they are using approximately eighteen classrooms.

Warren questioned at what point did Central Baptist start teaching K-12.

Dr. Miles stated they have always started K-12 in the processes of the church.

Bill Doolin, attorney for TCA, stated he does not think there is a necessity to file an application for a change of use or occupancy because he cannot find it in the code. He stated they are here because city staff told them to come here or the City of Lawton will take legal action. He does not find any authority in the code that says staff can bring this church before this body after some appeal. He stated the City premises its educational group E change of occupancy on the fact that the church has always been an A-3 and by adding TCA and its work it is now an E. The city code says you are an A-3 if you have less than 100 people and it is an adjunct to your religious occupation. He questioned what they were doing there.

Shoemate stated he is afraid every church in town is going to be in trouble if this doesn't pass. His church has a clothing ministry and a dental ministry and he doubts they have every changed their code of the church, but yet they are reaching out to people in need.

Mayor Purcell stated they need to either affirm the ruling of the appeals board or they overrule the appeals board.

Warren stated it boils down to when you look at change of use, is there an issue with the safety of children that will be taught in those classrooms, regardless of what the code says.

Mitchell stated yes, based on the parameters they are given to follow and the code that is adopted by the City of Lawton. It is important that the City of Lawton issue a Certificate of Occupancy to a building. Any time a new building is built or a building changes use or has a major remodel, part of the permitting process is verification that the use is validly occupying that structure and it meets all of the safety codes. In this building, the only thing that it has been recognized as is when it was originally built in 1954 or 1955 is as an A-3. The requirements for A-3 then and now are different. Based on the parameters staff is given to grade these projects, the intent is not to keep them coming in and operating. They are not looking at churches and the uses that are recognized as accessory to the church. He stated this was precipitated by a request by Mr. McKee for staff to look at the building. If staff can find an exception that will make it easier, they do that. In this particular project they do believe that this is a change of use from an A-3 to an educational and they are stuck at this point.

Mayor Purcell stated they need to clarify if Mr. McKee is appealing the ruling of the appeals board.

Mr. Doolin stated yes.

MOVED by Shanklin, SECOND by Haywood, to approve the appeal of Trinity Christian Academy. AYE: Burk, Shanklin, Patton, Haywood, Warren, Shoemate, Hanna, Drewry. NAY: None. MOTION CARRIED

The Mayor and Council recessed at 7:16 p.m. and reconvened at 7:25 p.m. Roll call reflected all members present.

19. Hold a public hearing and consider an ordinance closing a 10-foot easement on Lots 15 and 16, Block 1, Stephens Addition, also known as 2106 NW Atlanta Avenue. Exhibits: Ordinance No. 08-____, Location Map and Application.

Richard Rogalski, Planning Director, stated this item has to do with closing a public utility easement. The lot line was never recognized and now they need to release that easement.

Patton questioned if this was just to clear up the title.

Rogalski stated yes.

PUBLIC HEARING OPENED

Steve Newcomb, attorney for the property owner, request the City Council close this particular easement.

PUBLIC HEARING CLOSED

Vincent stated if the City Council passes this ordinance there will be a vacation action in District Court. This precipitates the vacating by the District Court.

MOVED by Shoemate, SECOND by Hanna, to adopt **Ordinance 08-68** waive the reading of the ordinance, read the title only. AYE: Hanna, Drewry, Burk, Shanklin, Patton, Haywood, Warren, Shoemate. NAY: None. MOTION CARRIED

(Title read by City Attorney) Ordinance 08-68

An ordinance closing a portion of a utility easement located on property in Stephens Addition addressed as 2106 NW Atlanta Avenue, more particularly described in section one of the ordinance.

20. Hold a public hearing and consider an ordinance repealing Ordinance No. 06-70 and changing the zoning from A-1 (General Agricultural District) and F (Floodplain District) to R-1 (Single-Family Dwelling District) zoning classification with a Planned Unit Development overlay district located approximately 1/4 mile south of NE Cache Road and 1/4 mile west of NE Flower Mound Road. Exhibits: Ordinance No. 08-____ with site plan, Location Map, Application and CPC Minutes.

Rogalski stated the Scissortail subdivision is currently under construction. In 2006 there was a rezoning and a PUD overlay that was provided for this subdivision. They moved the boundary a little bit in the construction plat and so the boundaries of the rezoning, PUD and construction plat did not match. There were some areas that were not included in the old PUD. The current request is for about 47.4 acres. They will need to repeal the old ordinance and provide for the new zoning and classification.

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

MOVED by Drewry, SECOND by Hanna, to adopt **Ordinance 08-69**, waive the reading of the ordinance, read the title. AYE: Drewry, Burk, Patton, Haywood, Warren, Shoemate, Hanna. NAY: None. ABSENT: Shanklin. MOTION CARRIED

(Title read by City Attorney) Ordinance 08-69

An ordinance repealing Ordinance No. 06-70 and changing the zoning classification of the tract of land which is more particularly described in Section 1 hereof from the existing classification of A-1 (General Agricultural District) and F (Floodplain District) to R-1 (Single-Family Dwelling District) zoning classification with a planned unit development overlay district; authorizing changes to be made upon the official zoning map in accordance with this ordinance.

21. Receive the semi-annual update of the hotel/motel tax funded activities for FY 2008-2009 from the Northside Chamber of Commerce. Exhibits: None.

Nicole Bailey, Executive Director for the Northside Chamber of Commerce, distributed a report for the period ending October 31st. They assisted 63 entrepreneurs, helped procure \$546,257 to help several business. She stated she does use HUD guidelines to depict whether the job is a low/moderate job created or above/moderate job created. She stated the majority of the individuals they assist are low/moderate income.

Mayor Purcell suggested that she show dollars spent in the next report.

Ms. Bailey stated that she does turn that information in to the Finance Director on a monthly basis.

22. Receive the semi-annual update of the hotel/motel tax funded activities for FY 2008-2009 from the Lawton Fort Sill Chamber of Commerce. Exhibits: None.

Dana Davis, Lawton Fort Sill Chamber of Commerce, distributed a semi-annual report. He stated he is close to making an offer to a strong candidate for the Vice President for Economic Development. He stated they included articles and marketing and advertising literature they have utilized. They continue to work with BRAC prospects at the present time. He stated prospects can see that the Air Defense Artillery school is underway at Fort Sill and they are in contact with these prospects and they are working with them on a regular basis. He stated they continue to work with the City of Lawton regarding the downtown redevelopment program. The feasibility analysis is being conducted for the hotel and convention center and also for the sports arena. They have selected the company to perform the study and the report is due at the end of this year. They have submitted six proposals to potential prospects since July 1, 2008 but the economic downturn has affected the number of prospects that are in the pipeline. He stated they have hired a construction management firm for the Fort Sill Industrial Park and the BAE project. They continue to provide distribution of the visitors resource guide through traveler s information

centers across Oklahoma. Locally they mailed out 88 visitor packets and 33 relocation packets this fiscal year. They will continue to participate in travel shows. He stated they have been awarded the 2010 American Softball Association Women's Class D National Tournament. He stated they also have the national tournament for 2009. He stated they could not succeed with these tournaments without the support of the City of Lawton Parks and Recreation Department.

Mayor Purcell encouraged organizations to put events on the Chamber on line calendar.

Warren stated organizations need to look at scheduling events so that everyone can attend. If they time everything right, they can fill every venue.

Mr. Davis stated at a board meeting last month they identified a resource that will allow them to hire a Director of Marketing and Communications. They will not be using hotel/motel funds. He stated under government and military affairs, they are working closely with the City of Lawton as they are utilizing the same lobbyist at the state level. They are focusing on one issue which is funding support for the BRAC initiative and the growth that is occurring in Lawton. They are also in the process of drafting their federal issues. The tentative dates for the Washington, D. C. trip are March 31st, April 1st and April 2nd.

24. Consider adopting an ordinance amending Section 17-2-11-232, Lawton, City Code, 2005, by deleting the provision that no person related within the third degree to an employee of the personnel department shall be appointed to any service of the City, providing for severability and declaring an emergency. Exhibits: Ordinance 08-___, results of other cities polled, EAC request for this change from 2006.

Mayor Purcell stated the title is not correct on this ordinance and requested this item be tabled.

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

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Hanna stated they got some great information at the National League of Cities Conference in Orlando.

Drewry stated that Fort Sill has really gotten on board with the Fit Kid's Coalition and are having an event on November 25th at Gunners Inn. They have had over 5,000 people sign up for this event. She stated it really says a lot for Lawton that we got this program going. She stated from December 6, 2008 through February 1, 2009, Diane Mullins, Fran Wehner and herself will have a photography display at the Museum of the Great Plains called Sante Fe Through the Lens of Friends.

Burk thanked all of the people who showed their support to him and his family during this time of need.

Shanklin questioned if there was an oversight committee of any kind for the Central Junior High project.

Mayor Purcell stated most of the work done now is by Lawton Public Schools. The money from the McMahon Foundation is going to LPS. Even the money from the State went to LPS for the renovations. They are still working on Phase I.

Shanklin stated he though the project was now all ours.

Mayor Purcell stated the National League of Cities conference next year is in November in San Antonio.

Long recognized our emergency responders with regards to an incident that took place today at 82nd and Lee. He also commended the Fort Sill community as well as the private sector and non profit community.

Vincent stated he has submitted his retirement papers effective January 2, 2009. He has taken a job as the City Attorney in Muskogee.

The Mayor and Council convened in executive session at 8:21 p.m. and reconvened in regular, open session at 8:35 p.m. Roll call reflected all members present.

EXECUTIVE SESSION ITEMS:

25. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending Workers Compensation claim of Robert Martin, and if necessary, take appropriate action in open session. Exhibits: None.

Vincent read the title of item #25. No action is required.

26. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, discuss the appointment of a new City Attorney to succeed the retiring City Attorney, and if necessary, take appropriate action in open session. Exhibits: None.

Vincent read the title of item #26.

MOVED by Drewry, SECOND by Burk, to appoint Frank Jensen as the new City Attorney with a salary of \$99,000 per year effective January 1, 2009. AYE: Shanklin, Patton, Haywood, Warren, Shoemate, Hanna, Drewry, Burk. NAY: None. MOTION CARRIED

Mayor Purcell stated he received notice of a potential rate increase by PSO of 7%-15% depending on the class and usage of the customer. A hearing before the Oklahoma Corporation Commission will start on December 8, 2008 and there will be a period set aside for public comments.

There being no further business to consider, the meeting adjourned at 8:38 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