

Meeting of 2008-4-8 Regular Meeting

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
APRIL 8, 2008 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor John P. Purcell, Jr. Also Present:
Presiding Larry Mitchell, City Manager
 John Vincent, City Attorney
 Traci Hushbeck, City Clerk
COL Robert Bridgford, Fort Sill Liaison (Arrived @ 6:20 p.m.)

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 Pastor Mark Henslee, Westminster Presbyterian Church, followed by the Pledge of Allegiance.

ROLL CALL

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

ABSENT: None

PRESENTATION OF CITIZEN OF THE MONTH FOR APRIL TO PAT POWELL.

Sandra Kunz, Mayor's Commission on that Status of Women announced that Pat Powell has been named Citizen of the Month for April.

Mayor Purcell read a Certificate of Congratulations from the State of Oklahoma and a Certificate of Commendation from the Mayor's Office.

Ms. Kunz encouraged citizens to submit nominations for those citizens who contribute to the community.

PRESENTATION FROM STUDENTS WORKING AGAINST TOBACCO (SWAT)

Sarah Byrd, President of the Lawton Fort Sill Students Working Against Tobacco Team, presented a power point presentation (attached). She stated they could be utilized as expert resources in anything tobacco related. She suggested that the City of Lawton establish a tobacco free recreation areas ordinance.

Burk stated that he attended the opening of their display at the Museum of the Great Plains and was very impressed. He would like to see the City Council adopt an ordinance for tobacco free parks.

Mayor Purcell suggested Councilmember Burk meet with the City Attorney to draft an ordinance.

Shoemate stated that he and Councilmember Drewry attended a presentation last month hosted by SWAT. He stated this is a great group of young people.

Mayor Purcell stated these kids have obviously made a difference. The City Council has agreed to take a look at the ordinance they requested.

AUDIENCE PARTICIPATION:

Richard Hazelbaker, 2216 NW 25th Street, stated he set out two trash bags last Tuesday to be picked up along with a Styrofoam cooler. He stated they picked up his bags but left the cooler.

Mayor Purcell stated that this Council has decreed that the only thing to be picked up will be items that are in 35-gallon trash cans or in six large trash bags. He stated the committee just met to modify the code, but as of right now these are the rules adopted by this Council.

Mr. Hazelbaker stated that people are going to put these things out and he can see a problem with cardboard blowing all over the place.

Mayor Purcell stated that is why they adopted these rules. You cannot make the assumption that it is only going to blow after the trash men come by. He stated there may be a modification in the future.

Shanklin stated they should be addressing this problem at the next meeting.

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 Drewry, SECOND by Haywood, to approve the Consent Agenda. AYE: Patton, Haywood, Warren, Shoemate, Hanna, Drewry, Burk, Shanklin. 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: Damon and Sonia Hall in the reduced amount of \$4,531.89 (**Res. 08-36**), Flo D. Alger in the reduced amount of \$1,561.50 (**Res. 08-37**), Lisa and Chris Przekurat in the amount of \$97.31, and Georgene Mesco in the amount of \$166.90. Exhibits: Legal Opinions/Recommendations, Resolution No.08-____, Resolution No.08-____.

2. Consider the following damage claims recommended for denial: Albert and Susan Ozuna in the amount of \$1,200.00, Ronny and Sharon Ahlborn in the amount of \$590.00, Dewey Davis in the amount of \$33,207.37, Cassandra and Tommie McMath in the amount of \$25.00, and David Biesanz and Karie Morris in the amount of \$155.00. Exhibits: Legal Opinions/Recommendations.

3. Consider authorizing litigation in the City's collection efforts to recover charges incurred for utility services by Judy Barbee and for the grease trap analysis done on the Delta Queen Restaurant. Exhibits: None.

4. Consider authorizing the City Attorney to accept the settlement of Five Thousand and No/100 Dollars (\$5,000.00) for the City's subrogation interest in the personal injury case of Darrell Southerland. Exhibits: None.

5. Consider authorizing the reduction of landfill fees for the disposal of debris and demolition materials related to the demolition of the Lawton Country Club by fifty percent, not to exceed six thousand dollars (in partial consideration for the sewer line easement across the Lawton Country Club Golf Course) and take action as deemed necessary. Exhibits: Letter from Ed Dzialo dated March 31, 2008.

6. Consider ratifying the actions of the Lawton Water Authority extending the lease term between El Pache Energy, Inc. and the Lawton Water Authority for the use of surface rights on a 3.0-acre tract of land in the SW/4 of Section 11, T4N, R11W, I.M., in the vicinity of Lake Ellsworth, and authorize the Mayor and City Clerk to execute the lease document. Exhibits: Third Amendment to Lease Agreement and Location Map.

7. Consider approving a request to enter into contract with the Comanche County Juvenile Bureau in their Gang Prevention and Intervention Project and the Lawton Police Department. Exhibits: Copy of the agreement with the Comanche County Board of Commissions on behalf of the Comanche County Juvenile Bureau.

8. Consider Authorizing Application and Acceptance of a Department of Justice Grant. Exhibits: None.

9. Consider allowing the Parks & Recreation Department to Co-sponsor with the Exotic Toyz Motorcycle Club, a softball tournament for the year 2008. Exhibits: Letter of request for Exotic Toyz Motorcycle Club.

10. Consider accepting easements from property owners for right of way needed for the NW 67th Street Reconstruction (Cache Road to Rogers Lane) Project #2003-7, authorizing the Mayor and City Clerk to execute the documents and authorizing payments for same. Exhibits: Settlement Table. Documents are on file in the City Clerk's office.

11. Consider adopting **Street Light Resolution No. 455** to authorize the installation/removal of street lights at the

locations listed in the Resolution. Exhibits: Street Light Resolution No. 455.

12. Consider adopting a resolution approving the 2030 Long Range Transportation Plan. Exhibits: **Resolution No. 08-38**. 2030 Long Range Transportation Plan (sent under separate cover)

13. Consider acknowledging receipt of a Tier I permit from the Oklahoma Department of Environmental Quality for the construction of 95 linear feet of 8-inch PVC water line and all appurtenances to serve Enterprise Rent-A-Car located at 6103 NW Cache Road in the SW/4 of Section 21, T2N, R12W, I.M., Comanche County, Oklahoma. Exhibits: Permit to Construct on file in the City Clerk s Office.

14. Consider acknowledging receipt of a Tier I permit from the Oklahoma Department of Environmental Quality for the construction of 2,096 linear feet of 8-inch PVC waterline, 1,182 linear feet of 10-inch PVC waterline, and all appurtenances to serve the Legend Park Apartments located at 3501 East Gore Boulevard in the NE/4 of the NW/4 of Section 34, T2N, R11W, I.M., Comanche County, Oklahoma. Exhibits: Permit to Construct on file in the City Clerk s Office.

15. Consider awarding (CL08-044) Wrecker Service to Priest Brothers of Lawton, OK. Exhibits: Department recommendation, abstract of bids.

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

17. Consider approval of payroll for the period of March 24 April 6, 2008.

BUSINESS ITEMS:

18. Consider a request for funding assistance from the Lawton-Fort Sill Regional Airport to expand the existing fuel facility in order to accommodate intrinsic growth, BRAC stimulated growth, and the recently added commercial air service, discuss possible funding sources and take proper action as deemed necessary. Exhibits: Letter; Request for funding, Lawton Ft. Sill Regional Airport, dated March 7, 2008 and Letter; Bid Tabulation & Recommendations, Garver Engineers, dated March 3, 2008.

Mitchell stated there are members of the Lawton Airport Authority in attendance to present a proposal. They have requested assistance in funding a 15,000 gallon storage tank facility at the airport that they need desperately to provide jet fuel for additional jet service. They did meet with the Comanche County Industrial Development Authority last week who approved a grant in the amount of \$75,000 with the condition that the City of Lawton would match that grant with an additional \$75,000. He stated if there is an error in the background information printed in the agenda book. The background stated that the Petroleum Marketers Equipment submitted a bid for \$228,358. That amount should be \$249,758. The error was caused by a preliminary estimate they received. That estimate was modified. Should the Council decide to support this project, staff is recommending that those monies come from hotel/motel tax funds. He stated the current balance of hotel/motel funds, as of April 2nd, is \$587,270.

George Moses, Chairman of the Development Committee for the Lawton Airport Authority, stated he has been involved in this fuel farm project for three years. He stated with the addition of Delta Airlines and the BRAC growth, the ten year planning assessment is showing that this will get them through the near term years. They believe our capacity is exceeded by the demand. When the military airlines come in they take on a full load of fuel and we don t want them to leave here with a half load. That means they have to stop somewhere else which usually ends up in a written notice in the aviation publications that says that our airport is limited in its fueling capacity. We want to keep that restraint from being placed on our airport. They have set aside \$100,000 of airport money thinking they could get close enough, but the bid came in quit a bit over that and they hammered it down to the figure they see now. They feel this is an adequate and appropriate expansion and the price is reasonable.

Haywood thanked everyone on the Authority for their hard work. He stated this is a need that has been expressed by officials at Fort Sill.

MOVED by Haywood. SECOND by Shanklin, to approve a request from the Lawton-Fort Sill Regional Airport for \$75,000 to be paid from hotel/motel funds for assistance to expand the existing fuel facility in order to accommodate intrinsic growth, BRAC stimulated growth, and the recently added commercial air service. AYE: Haywood, Warren, Shoemate, Hanna, Drewry, Burk, Shanklin, Patton. NAY: None. MOTION CARRIED.

19. Consider adopting an ordinance pertaining to streets and sidewalks amending Section 20-4-403, Article 20-4, Chapter 20, Lawton City Code, 2005, by establishing new fee requirements for revocable communications cable or pipeline permits, providing for severability, and declaring an emergency; consider approving a resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 2005, to establish fees for revocable communications cable or pipeline permits. Exhibits: Ordinance No. 2008-___, Resolution No. 2008-___.

Vincent stated staff has been reviewing a request from Chickasaw Communication for a revocable permit and have determined that they do not need one because they now qualify as a telephone exchange service. He stated while conducting this review they found that the \$500 fee that they have charged in the past got cropped out of Appendix A and they are requesting that this correction be made.

MOVED by Warren, SECOND by Shoemate, to adopt **Resolution 08-39** and **Ordinance 08-28**, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Warren, Shoemate, Hanna, Drewry, Burk, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

(Title read by City Attorney) Ordinance 08-28

An ordinance pertaining to streets and sidewalks amending Section 20-4-403, Article 20-4, Chapter 20, Lawton City Code, 2005, by establishing new fee requirements for revocable communications cable or pipeline permits, providing for severability, and declaring an emergency.

20. Consider an ordinance creating Section 16-5-1-544, Division 16-5-1, Article 16-5, Chapter 16, Lawton City Code, 2005, by making it unlawful to build any type of fire when there is a proclamation declaring a burn ban, providing a penalty for such violations and further providing for severability, codification and declaring an emergency. Exhibits: Ordinance No. 2008-__.

Vincent stated this was actually codified in Title 2, Oklahoma Statute, Section 16-26, which provides that any violation of this type of burn ban would go to District Court. They felt it was more efficient for police officers and fire marshals if they are able to site and take it to Municipal Court. We are actually taking state statute and moving it over to our city code.

MOVED by Patton, SECOND by Haywood, to adopt **Ordinance 08-29**, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Shoemate, Hanna, Drewry, Burk, Shanklin, Patton, Haywood, Warren. NAY: None. MOTION CARRIED.

(Title read by City Attorney) Ordinance 08-29

An ordinance pertaining to offenses against the public creating Section 16-5-1-544, Division 16-5-1, Article 16-5, Chapter 16, Lawton City Code, 2005, by creating an emergency drought conditions whereas burning prohibited, providing for severability, codification, and establishing an emergency.

21. Consider an ordinance creating Section 16-5-1-545, Division 16-5-1, Article 16-5, Chapter 16, Lawton City Code, 2005, by (1) making it unlawful for any person to wear mask, hood, or covering, which conceals the identity of the wearer during the commission of a crime or for the purpose of coercion, intimidation or harassment, (2) providing a penalty for such violations and (3) further providing for severability, codification and establishing an effective date. Exhibits: Ordinance No. 2008-__.

Vincent stated this was passed by the legislature last session.

Drewry questioned if it was illegal for someone who is out behind someone's house and they have a hood on to disguise themselves even though they are not committing a crime at that point.

Vincent stated it has to be during the commission of a crime.

MOVED by Haywood, SECOND by Warren, to adopt **Ordinance 08-30**, 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 08-30

An ordinance pertaining to offenses against the public adding Section 16-5-1-545, Division 16-15-1, Article 16-5, Chapter 16, Lawton City Code, 2005, by creating a provision outlawing masks, hoods and disguises with exceptions providing for severability, codification and creating an effective date.

22. Consider an ordinance creating Section 23-3-307, Article 23-3, Chapter 23, Lawton City Code, 2005, by (1) making it unlawful for any individual knowingly and intentionally destroy, remove, cover, alter or deface, or cause to be destroyed, covered, removed, altered or defaced the trim tag plate of a motor vehicle, (2) to knowingly affix a counterfeit trim tag plate to a motor vehicle, (3) to manufacture, offer for sale, sell, introduce, import or deliver for sale or use in the City of Lawton a trim tag plate that was affixed to a motor vehicle at the time of manufacture but has since been removed or become dislodged, (4) providing a penalty for such violations and (5) further providing for severability, codification and establishing an effective date. Exhibits: Ordinance No. 2008-__.

Vincent stated this is taken from new state statute. He stated the trim tag is the tag on the door frame that has a bar code which can be swiped that has all the information about the car. Apparently people are taking these off and switching them back and forth between cars. This will give the police the opportunity to prosecute in Municipal Court.

Mayor Purcell stated he has received some information recommending you cover your VIN number because people are taking the VIN number out of town and getting keys made based on that VIN number. He questioned if that was a good recommendation or a bad idea.

Chief Ronnie Smith, Lawton Police Department, stated he would not cover it up to where you could not pull it off if needed. He stated he does think you can take your VIN number to the dealer and get a key made.

Warren stated the manufacturer requires that you provide them with a title and they will mail the key to the address on that title.

MOVED by Drewry, SECOND by Hanna, to adopt **Ordinance 08-31**, waive the reading of the ordinance, read the title only. AYE: Drewry, Burk, Shanklin, Patton, Haywood, Warren, Shoemate, Hanna. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 08-31

An ordinance pertaining to vehicles and traffic creating Section 23-3-307, Article 23-3, Chapter 23, Lawton City Code, 2005, by creating a law which prohibits any person or persons from intentionally destroying, removing, altering, covering or counterfeiting tag plates, providing for severability, codification and establishing an effective date.

23. Consider adopting an ordinance pertaining to recreation, creating Section 19-7-714, Article 19-7, Chapter 19, Lawton City Code, 2005, by prohibiting the playing of golf in parks or other areas not designated for such use, providing for a penalty for such violation and further providing for severability, codification and declare an emergency. Exhibits: Ordinance No. 2008-___.

Vincent stated as a result of the audience participation several meetings ago, staff was directed to prepare an ordinance concerning the striking of golf balls inside the city limits. He stated there are several types of balls such as whiffle or rubber balls that would be permitted. He stated with this ordinance they are prohibiting the striking of a regulation golf ball in a public park or other place where it may cause damage or injury.

Patton stated they are not saying that a person cannot hit a golf ball, but it needs to be a practice ball.

Drewry questioned if this pertains to private property.

Vincent stated it would prohibit him from standing in his back yard and hitting golf balls in the field behind his house because there is a possibility that if he was hitting a regulation golf ball that it could be knocked through his neighbor's window.

Shanklin questioned if they were going to post a sign letting people know they cannot golf balls in these parks.

Vincent stated if the ordinance passes, that would be his recommendation that we provide notice.

Shanklin stated we just cannot sneak up on people and slap them with a \$750 fine.

Mitchell stated they could give warnings.

Mayor Purcell stated they could just wait until they pass an ordinance on smoking in the parks and then have one sign addressing things that are prohibited in parks.

Shanklin questioned if this was just for designated city parks.

Vincent stated the ordinance says a park or any place that might cause damage. This could apply to your front yard.

Shanklin stated this means you cannot hit a golf ball in the city limits of Lawton.

Vincent stated this would prohibit it in parks or anyplace that is not designated for playing golf. It would include baseball fields.

Patton stated they are just talking about designated golf balls, not the sponge rubber balls or the whiffle balls. They are made for people to hit in the back yards.

Warren stated he would be more than happy to support a smoking ban in city parks but he cannot tell people that they cannot hit a golf ball in a city park. He has sympathy for the gentleman that was here a few meetings ago, but we have issues all the time with things that happen in our lives. If they pass this, in a couple of weeks there will be someone standing here saying that someone hit a baseball in a city park and it knocked out their window and now they want an ordinance banning baseballs. He stated the problem is between the homeowner and who hit the ball. It does not need to be addresses at this council meeting. He does not see how they can tell someone that they cannot strike a golf ball in the park. If someone goes out and starts hitting balls toward homes, then we call the police. He feels they are going down the wrong road on this deal.

Patton stated that the way our laws are written, law usually hurt the law abiding citizen who is responsible.

Shanklin stated he feels they are going overboard on this issue.

MOVED by Warren, SECOND by Drewry, to deny the ordinance. AYE: Burk, Shanklin, Warren, Shoemate, Hanna, Drewry. NAY: Patton, Haywood. MOTION CARRIED.

24. Consider an ordinance pertaining to the animals, Section 5-1-115, Article 5-1, Chapter 5; Section 5-5-501, Article 5-5, Chapter 5, Lawton City Code, 2005, by adding keeper of the animal to the ordinance, providing for severability, and declaring an emergency. Exhibits: Ordinance No. 2008-__.

Vincent stated the state statute not only talks about the owner, but the keeper. He stated this is basically a clean up ordinance.

Shanklin questioned the meaning of running at large.

Vincent stated that it means that the animal is not on a leash or under control of the owner/keeper while they are outside the confines of a fence.

Shanklin questioned if they could get him on his property.

Vincent stated it would include his property if the animal is not on a leash.

Warren stated they would have to demonstrate that the animal is under control without a leash.

Vincent stated that would be between them and the judge.

Shanklin stated if his dogs go outside his house without a leash, then he is subject to a \$100 fine? He stated this is idiotic.

Vincent stated that is already in the code. All they are adding now is the word keeper.

Mayor Purcell stated if he has control of his dog and it does not get out of the yard no one will bother him.

Shanklin stated that is not true. He has been told to get his dog inside the fence or in the house or he will receive a ticket.

Drewry stated they could receive a ticket if the dog was sitting on the front porch.

Shanklin stated some of the stuff they got passed has come back to bite them.

Vincent stated the leash issue has been on the books since at least 1993.

Warren stated if the have to say either the dog has to be on a leash or not on a leash.

Shanklin questioned if they could be in a fenced yard.

Vincent stated yes. If the front yard is fenced, he is confined and cannot get out in the neighborhood.

Shanklin questioned if they could add the work neighborhood in terms of running at large.

Mayor Purcell suggested Councilmember Shanklin get with the City Attorney and make changes to the code.

MOVED by Hanna, SECOND by Haywood, to adopt **Ordinance 08-32**, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Shanklin, Patton, Haywood, Warren, Shoemate, Hanna, Drewry. NAY: Burk.

MOTION CARRIED.

(Title read by City Attorney)

Ordinance 08-32

An ordinance pertaining to animals, amending Section 5-1-115; 5-5-501, Article 5-1; 5-5, Chapter 5, Lawton City Code, 2005, by adding keeper of the animal to the ordinance, providing for severability, declaring an emergency.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

COL Bridgford thanked the Mayor, City Manager, School Superintendent and members from the Chamber for meeting with MG Bromberg from Fort Bliss, who came to Fort Sill for a tour. He stated there are a lot of changes going on around town. He stated the next televised town hall is April 17th at 6:00 p.m.

Hanna stated he would like to express his condolences to the Glenn Session family and the Hope Mason family. He stated these are two employees of Lawton Public Schools.

Drewry thanked the firefighters who helped the Women s Auxiliary raise money for the Salvation Army. She stated they raised \$7,000.

Shanklin stated he has moved to 406 Ferris. He stated there are people sleeping out at the 35th Division Park at 6th and Columbia by the little wading people. He stated they have taken around \$65-70 from the little lady across the street every time she comes out and opens her gate they intimidate her.

Warren thanked all of city staff involved in picking up the trash during this special clean up. He stated they picked his up after 10:30 p.m. last night. He heard that the last man came in past 1:00 a.m. this morning. He appreciated all of their hard work.

Mayor Purcell stated there will be a special meeting on April 15th at 6:00 p.m. to discuss the consolidated one-year action plan. He congratulated the Lawton Police Department for apprehending the individuals who beat up the two Fort Sill soldiers. He stated that was quick action.

Mitchell stated the Trash Off will be held April 19th. He stated the audit report should be on the next council meeting on April 22nd. The Council did receive a copy of a memo from him to department directors asking them to limit their expenditures for the balance of the year. He stated he will be out of the office on Thursday and Friday.

Shanklin questioned if the revenues were not coming in like we thought they were.

Mitchell stated the water revenues are down substantially because of the flooding last spring and summer.

Shanklin stated he mentioned a year ago that we might be down in our revenues. He got laughed off the stage.

Mitchell stated they have been talking about that issue every quarter.

Haywood stated he would like to ask everyone in Lawton and the surrounding areas to watch each other s houses. A lot of homes are being broken into and it is not just in one area.

Vincent stated he will on vacation the following week. Tim Wilson will be the Acting City Attorney.

There being no further business to consider, the meeting adjourned at 7:10 p.m. upon motion, second and roll call vote.

John P. Purcell, Jr.
JOHN P. PURCELL, JR., MAYOR
ATTEST:

Traci L. Hushbeck
TRACI HUSHBECK, CITY CLERK