

Meeting of 2008-5-13 Regular Meeting

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
MAY 13, 2008 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor John P. Purcell, Jr. Also Present:
Presiding Larry Mitchell, City Manager
 Frank Jensen, Acting City Attorney
 Traci Hushbeck, City Clerk

Mayor Purcell called the meeting to order at 6:04 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Pastor Gene Escoe, Trinity Baptist 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 (Arrived @ 6:06 p.m.)
Robert Shanklin, Ward Five
 Stanley Haywood, Ward Seven
 Randy Warren, Ward Eight

ABSENT: Jeff Patton, Ward Six

RECOGNITION OF CONTRIBUTION BY T & S PRINTING FOR DISC GOLF COURSE SIGNAGE IN ELMER THOMAS PARK

Kim Shahan, Parks and Recreation Director, publicly recognized Jeff Henderson from T & S Printing for the donation of signage for the disc golf course in Elmer Thomas Park. He stated this investment was approximately \$3,500 - \$4,000.

PRESENTATION OF CITIZEN OF THE MONTH FOR MAY TO LINDA BENDER

Shirley Strickland, Mayor s Commission on that Status of Women announced that Linda Bender has been named Citizen of the Month for May.

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

PRESENTATION OF CERTIFICATE OF APPRECIATION FROM MUSEUM OF THE GREAT PLAINS

Mayor Purcell presented a Certificate of Appreciation from the Museum of the Great Plains to City Manager Larry Mitchell in recognition for the contributions made by the City of Lawton with the first annual bicycle festival.

PRESENTATION OF PROCLAMATION FOR MUNICIPAL CLERKS WEEK

Mayor Purcell presented a proclamation to City Clerk Traci Hushbeck proclaiming the week of May 18 24, 2008 to be Municipal Clerks Week in the city of Lawton.

AUDIENCE PARTICIPATION:

Bob Knottek, 332 NW Mission Boulevard, stated he is part of the Mission Village Neighborhood Watch. He wanted to express his support for the Lawton Police Department. He stated he had a negative attitude about the police department until he went through the Citizen s Police Academy. He now feels we have one of the finest police departments he has ever seen even though they are undermanned, understaffed, underpaid and under appreciated. He feels the police department should be the last ones affected in any budget cuts.

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.

Mitchell requested item #22 be considered separately.

MOVED by Warren, SECOND by Drewry, to approve the Consent Agenda with the exception of item #22. AYE: 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: American Electric Power Co. in the amount of \$2,164.00 (**Res. 08-48**), American Power Electric Co. in the amount of \$624.00 (**Res. 08-49**), Troy and Chong Matthews in the reduced amount of \$2,448.85 (**Res. 08-50**), and Dallas and Karen Howard in the amount of \$244.90. Exhibits: Legal Opinions/Recommendations, Resolution No. ____, Resolution No. ____, Resolution No. ____.

2. Consider the following damage claims recommended for denial: Candy and Earl Thomas in the amount of \$422.71 and Joyce A. Smith in the amount of \$60.00. Exhibits: Legal Opinions/Recommendations.

3. Consider approval of the Retainer Agreement for Legal Services between the City of Lawton and Sue Taylor and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Retainer Agreement for Professional & Legal Services on file in City Clerk s Office.

4. Consider approval of the Retainer Agreement for Legal Services between the City of Lawton and Leah S. Terrill-NesSmith and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Retainer Agreement for Professional & Legal Services on file in City Clerk s Office.

5. Consider approval of the Agreement for Administrative Professional Services with Bethany Schuler, to work as a Legal Assistant Intern in the City Attorney s Office, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Agreement.

6. 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 Michael Brown in the Workers' Compensation Court, Case No. 2007-10471 J. Exhibits: **Resolution No. 2008-51**.

7. 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 Randy Britton in the Workers' Compensation Court, Case No. 2007-12855 F. Exhibits: **Resolution No. 2008-52**.

8. Consider adopting a resolution ratifying the action of the City Attorney and the City Manager in filing and making payment of two judgments in the Workers Compensation cases of Jerry Shively in the Workers Compensation Court, Case No. 2006-06797 J and Case No. 2006-11440 R. Exhibits: **Resolution No. 2008-53; Resolution No. 2008-54**.

9. Consider approving an Agreement for Limited Services between the Lawton Heritage Association and the City of Lawton to provide financial assistance for the Historic Mattie Beal Home located at 1006 SW Summit Avenue. Exhibits: Agreement for Limited Services.

10. Consider voiding the individual outside water sales contract between Tina Chandler and the City of Lawton and authorize a refund of her application fee. Exhibits: None.

11. Consider approving an Amendment to the Outside Water Sales Contract with Dustin Lorenzen and Nichole Scruggs, and authorize the Mayor and City Clerk to execute the Contract. Exhibits: Contract is on file in the City Clerk s Office.

12. Consider approving an Amendment to the Outside Water Sales Contract with Dayman and Linda Reinwand, and authorize the Mayor and City Clerk to execute the Contract. Exhibits: Contract is on file in the City Clerk s Office.

13. Consider approving an energy performance contract with Chevron Energy Solutions Company to make improvements to various City facilities and processes to save energy and the costs associated, and authorize the Mayor and City Clerk to execute the Contract. Exhibits: Contract is on file in the City Clerk s Office.

14. Consider awarding a contract to J. L. Walker Construction Inc., Oklahoma City, for the Lawton City Offices Phase II, Original Lawton High School, Lawton, Oklahoma, and authorize the Mayor and City Clerk to take appropriate action as deemed necessary. Exhibits: A copy of the Agreement may be reviewed in the City Clerks Office. Bid Tab Sheet for Phase II, Meyer Architecture Plus, April 3, 2008, Pricing Deduction Break Down, Meyer Architecture Plus, April 22, 2008, Letter from McMahon Foundation, dated May 6, 2008, Letter to CCIDA, dated January 31, 2008 and Letter from AEP Foundation, dated January 2, 2008.

15. Consider approving and authorizing the Mayor to sign the attached Memorandum of Agreement for the Construction and Operation of Building #900 (E-911 Dispatch/Emergency Operations Center). Exhibits: Memorandum of Agreement for the Construction and Operation of the Building. Memo from Emergency Communications Supervisor Derrell Morgan to Police Chief Ronnie Smith.

16. Consider approving and authorizing the Mayor to sign the attached Memorandum of Agreement with the Oklahoma Emergency Medical Services Authority. Exhibits: Memorandum of Agreement with the Oklahoma Emergency Medical Services Authority.

17. Consider approving a Cooperative Purchase agreement between the City of Lawton, The Board of Realtors, Lawton Oklahoma, in the procurement of materials for the construction of a playground, to be located in a section of land located in Elmer Thomas Park between 2nd and 3rd Streets south of the Holiday House and authorize the Mayor and the City Clerk to execute the same. Exhibits: Cooperative Purchase Agreement and Letter of Request.

18. Consider approving the lease agreement between the City of Lawton and the Crossroads Youth and Family Services Center, Inc., dba, Crossroads Head Start/ Early Head Start. Exhibits: Lease Agreement.

19. Consider approving the fee structure established by the YMCA to cover the cost of operation for the municipal swimming pool in Mattie Beal Park. Exhibits: Lawton YMCA fee structure.

20. Consider adopting a resolution designating places and times within municipal jurisdiction to discharge fireworks on July 4, 2008. Exhibits: **Resolution No. 08-55**.

21. Consider accepting an agreement with Dan Wigington for appraisal services, and authorize the Mayor and City Clerk to execute the agreement. Exhibits: Agreement is on file in the City Clerk s office.

22. Consider approving the application for a Lease-Purchase Agreement for the construction of approximately 845 linear feet of 12 diameter water main located along SW Bishop road, just east of SW 67th Street. Exhibits: Application for Lease-Purchase Agreement.

Mitchell stated in the estimated cost of construction, staff inadvertadely included a permit fee to DEQ and an application fee to the City. He stated the construction total needs to be revised and reduced by \$425. The amended construction amount would be \$61,168.

MOVED by Hanna, SECOND by Shoemate, to approve the application for a Lease-Purchase Agreement with the amended amount of \$61,168. AYE: Haywood, Warren, Shoemate, Hanna, Drewry, Burk, Shanklin. NAY: None. MOTION CARRIED.

23. Consider granting a revocable permit to use a portion of the NW 25th Street right-of-way north of Gore Boulevard for parking and maneuvering. Exhibits: Application and Revocable Permit.

24. Consider accepting the 6-inch waterline crossing Gore Boulevard and serving a fire hydrant located #1 SW 11th Street and accepting the maintenance bond. Exhibits: Location Map. Maintenance Bond is on file in the City Clerk s Office.

25. Consider acknowledging receipt of a Tier 1 permit from the Oklahoma Department of Environmental Quality for the construction of 250 linear feet of 8-inch PVC water line and all appurtenances to serve Switzer s Locker Room located at 602 SW 82nd Street in the NW/4 of Section 32, T2N, R12W, I.M., Comanche County, Oklahoma. Exhibits: Permit to Construct on file in the City Clerk s Office.

26. Consider awarding (CL08-046) Dispatch Console Workstation to Viking Acoustical Corporation of Lakeville, MN. Exhibits: Department recommendation, abstract of bids.

27. Consider extending the contract (RFPCL07-051) Rental or Lease of Work Clothing with Cintas Corp. of Lawton, OK. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.
28. Consider awarding (CL08-049) Nomex Uniforms to Wayest Safety Inc. of Oklahoma City, OK. Exhibits: Department recommendation, abstract of bids.
29. Consider extending the contract (RFPCL06-051) Employee Physicals/Drug Screen Testing with The Center for Occupational Health (Comanche County Memorial Hospital) of Lawton, OK. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.
30. Consider extending the contract (CL06-042) Library Book Contract with the following vendors: Davidson Titles, Inc. of Jackson, TN Items 1-3, 6-7, 11, 14-18, 22-28, 31, 2) The GaleGroup of Farmington Hills, MI Items 2-4, 6-7, 13, 15, 21, 23-24, 3) The H.W. Wilson, Company of Bronx, NY Item 15, 4) The Penworthy Company of Milwaukee, WI Items 22-24, 5) Publishers Quality Library Service of Crete, IL Items 24-25, 6) Recorded Books LLC of Prince Frederick, MD Items 26, 31, 7) Regent Book Company of S. Hackensack, NJ Items 1-9, 11-12, 14-24, 26-28, 31-32, 8) Rourke Publishing LLC of Vero Beach, FL Items 24-32, 9) Salem Press, Inc. of Hackensack, NJ Item 15, 10) Scholastic Library Publishing, Inc. of Danbury, CT Items 3, 6, 11, 15, 22, 24, 26-28, 31, 11) Borders, Inc. of Ann Arbor, MI Items 1-9, 11-12, 14-26, 28, 31. Exhibits: Department Recommendation, Price Sheets, Contract Extension Forms.
31. Consider approving appointments to boards and commissions. Exhibits: None.
32. Consider approval of payroll for the period of April 21 May 4, 2008.

OLD BUSINESS ITEMS:

33. Consider approving a resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 2005, to establish fees for parades and public assemblies; and consider approving a resolution amending Appendix B, Bond Schedule, Lawton City Code, 2005, to establish facilities damage bonds. Exhibits: Resolution No. 2008-____; Resolution No. 2008-_____.

Warren stated he was the Chairman of the committee formed to look at the fees. The major change was in the actual permit. There will be no fee for the permit, but there will be a charge for the actual use fee that has always been in place.

Shoemate questioned if this would include Lawton Rangers, Armed Forces Day parade or the Boulevard of Lights parade.

Warren stated everyone will still have to fill out the permit application but the Council has waived the fees for some groups and they are able to waive fees for groups in the future. Those will have to be addressed individually.

MOVED by Warren, SECOND by Burk, to approve **Resolution 08-56** to establish fees for parades and public assemblies and **Resolution 08-57** amending Appendix B, Bond Schedule, Lawton City Code, 2005, to establish facilities damage bonds. AYE: Warren, Shoemate, Hanna, Drewry, Burk, Shanklin, Haywood. NAY: None. MOTION CARRIED.

34. Consider approving a resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 2005, to establish miscellaneous fees for special recreational events, and establish an effective date. Exhibits: Resolution No. 2008-_____.

Shahan stated these were fees that were recommended by the committee. He stated the first is a fee for transportation costs to take a portable picnic table to a location. This is additional service. The second is for additional service on the interior of the roadway in Elmer Thomas Park. The third is a fee for the parade stand. This is for the cost involved in the transport, hook up and tear down. The fourth is a fee that would be charged if an organization would request that a city employee to be on call and they are willing to pay a \$20 per hour fee to that employee to be there on site. The fifth fee is for the use of the 40 x 40 temporary roof system, which will predominately be used in Elmer Thomas Park for stage productions but can also be used in other locations. The committee recommended a \$4,000 fee for this use. He stated on a retail level this would cost around \$7,000.

Mayor Purcell questioned if this would include all the events this weekend.

Shahan stated that the committee did not recommend that those permits in existence be included in the new fees.

Warren stated that the committee has recommended that anything that was currently in the pipeline would stay the

same.

Mayor Purcell clarified that these new fees would not apply to anyone who has an application as of today.

MOVED by Warren, SECOND by Burk, to approve **Resolution 08-58** amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 2005, to establish miscellaneous fees for special recreational events, and establish an effective date. AYE: Shoemate, Hanna, Drewry, Burk, Shanklin, Haywood, Warren. NAY: None. MOTION CARRIED.

35. Consider approving a resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 2005, by establishing a fee for sound truck/sound amplification equipment permit per hour; and consider approving a resolution amending Appendix B, Bond Schedule, Lawton City Code, 2005, to establish a bond for sound truck/sound amplification equipment. Exhibits: Resolution No. 2008-____; Resolution No. 2008-____.

Shahan stated this was set as a per hour fee and the committee recommended changing this to a per day fee. It was originally set as \$25 per hour and the proposed change is \$25 per day.

Jensen stated the second resolution relates to the bond schedule which has been changed to \$0. He questioned if that was the intended amount or was it a clerical error.

Warren stated that the committee decided they did not want to charge for the bond.

Shahan stated they were charging for the fee for the permit of \$25 per day and they did not see the need of a \$50 bond.

Warren questioned if they needed to strike the whole section of the code.

Mayor Purcell stated there was a number in the schedule before and they need the resolution to change that number.

Jensen recommended they pass the resolution changing the amount to \$0.

MOVED by Warren, SECOND by Burk, to approve **Resolution 08-59** amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 2005, by establishing a fee for sound truck/sound amplification equipment permit per hour; and approve **Resolution 08-60** amending Appendix B, Bond Schedule, Lawton City Code, 2005, to establish a bond for sound truck/sound amplification equipment. AYE: Hanna, Drewry, Burk, Shanklin, Haywood, Warren, Shoemate. NAY: None. MOTION CARRIED.

36. Consider approving a resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 2005, to establish fees for the requested dumpster size and the number of dumps per day needed for special events, and establish an effective date. Exhibits: Resolution No. 2008-____.

Warren stated there was a decision to drop multiple containers and to raise the price of the 20 cubic yard container. There were issues with being able to get in and get out and people using too small of containers. This was the compromise that the committee came up with.

MOVED by Warren, SECOND by Burk, to approve **Resolution 08-61** amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 2005, to establish fees for the requested dumpster size and the number of dumps per day needed for special events, and establish an effective date. AYE: Drewry, Burk, Shanklin, Haywood, Warren, Shoemate, Hanna. NAY: None. MOTION CARRIED.

NEW BUSINESS ITEMS:

37. Hold a public hearing and consider an ordinance amending Section 18-1-1-114 amending the procedures for rezoning of property to provide additional site plan requirements and expiration and reversion of rezonings for tracts less than five acres or any size tract adjacent to existing R-1 districts or existing single-family residential uses and adding Section 18-1-1-114.1 establishing the procedure for review of amended site plans for rezonings, Chapter 18, Lawton City Code. Exhibits: Ordinance No. 08-___, CPC Minutes and Matrix.

Richard Rogalski, Planning Director, stated the City Council directed staff to prepare an ordinance amending Chapter 18 of the Lawton City Code to require site plans for rezoning requests for zoning classifications other than agriculture or single-family residential and to include a reversionary clause that would cause property not developed within two years of being rezoned to revert back to the previous zoning classification.

On February 28, 2008, the City Planning Commission (CPC) opened the public hearing for this amendment to

Chapter 18. The proposed ordinance establishes two types of site plans: basic site plan and detailed site plan. The basic site plan would require essentially the same information currently required for rezoning applications. The detailed site plan would require the information shown on a basic site plan plus items such as flood hazard areas, parking and driveways, screening, landscaping, signs, proposed use, building footprint, number of stories, height, and gross floor area for each building. The detailed site plans would be required for tracts of land less than five acres in total area or any tract of land adjacent to any existing RE or R-1 district or any single-family residential use. Detailed site plans would be part of the rezoning ordinance and any changes to the detailed site plan would follow the procedures in the proposed Section 18-1-1-114.1, Procedure for Review of Amended Detailed Site Plans for Rezoning.

The CPC designated a committee of John Jones, Keegan Ledford, and Pat Henry to review the ordinance with Staff and continued the public hearing until April 10, 2008. The committee revised the proposed ordinance to clarify total area for detailed site plans to better allow for master plan development, providing the rezoning cannot result in a tract that does not meet the minimum area of the district, and that the planning director must approve amended site plans if the changes are determined to be not significant by the CPC.

The proposed ordinance also provides for expiration and reversion of zoning for tracts requiring a detailed site plan (less than five acres or any size tract adjacent to existing RE or R-1 district or any existing single-family residential use) if a building permit has not been issued and construction has not begun within two years from the Council approval of the rezoning. The CPC strongly opposed this section of the proposed ordinance for the following reasons:

1. The ordinance already has built-in protection in that an approved site plan cannot be changed without the approval of the City Planner, the CPC, or City Council;
2. (Economic) -- The purchase of a site to be rezoned will suffer a financial loss if the property is rezoned and then construction does not commence within the two year period. The purchase price is typically based on the rezoned land value; therefore, if it reverts back to a residential value in two years, the loss could be tremendous;
3. This would discourage parties to invest in these properties based on the potential economic loss;
4. A two-year reversionary clause will make financing difficult to obtain; and
5. The market changes quickly, therefore it may be necessary to delay a project for more than two years.

On April 10, 2008, the CPC, by a vote of 7 0, recommended approval of the ordinance but recommended deletion of the reversion and expiration provision.

Warren questioned if there was really any reason to have the reversionary clause. He stated it is not so much to protect anybody but more to push somebody into going ahead and building.

Rogalski stated the primary reason for reversion is to give you a second chance in terms of overall city planning. It can have an affect on the development of the surrounding area because no one knows what will happen there. He does believe in the binding site plan because everyone will know exactly what will happen.

Mayor Purcell stated if they want to eliminate the reversionary clause they would have to strike everything added under paragraph six on page 237 and paragraph F on page 238 of the agenda book.

Shanklin questioned if the City Council requested this ordinance.

Mitchell stated there was a request from Councilmembers Drewry and Patton and the City Council agreed.

Rogalski stated it happened a while ago.

Shanklin stated as far as he is concerned, staff spent a lot of time doing nothing.

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

MOVED by Drewry, SECOND by Warren, to adopt **Ordinance 08-37** with the deletion of paragraph six on page 237 and paragraph F on page 238, waive the reading of the ordinance, read the title only. AYE: Burk, Shanklin, Haywood, Warren, Shoemate, Hanna, Drewry. NAY: None. MOTION CARRIED

(Title read by City Attorney)

Ordinance 08-37

An ordinance pertaining to planning and zoning amending Section 18-1-1-114, Division 18-1-1, Article 18-1, Chapter 18, Lawton City Code, 2005, by amending the procedures for rezoning of property to provide additional site

plan requirements; creating Section 18-1-1-114.1, Division 18-1-1, Article 18-1, Chapter 18, Lawton City Code, 2005, establishing the procedure for review of amended detailed site plans for rezonings; and providing for codification and severability.

38. Hold a public hearing to consider Consolidated One-Year Action Plans for FFY 2007, Change 1; FFY 2005, Change 3; and FFY 2004, Change 6; receive input from citizens, and authorize the Mayor and City Clerk to execute the implementing documents. Exhibits: Exhibit A: The Consolidated One-Year Plan Changes for FFY 2007, Change 1; FFY 2005, Change 3; and FFY 2004, Change 6.

Mayor Purcell reminded the Council members to be cautious regarding any conflict of interest.

Tom Aplin, Assistant Director of Housing and Community Development, stated staff is proposing a multi year change. This change affects both the CDBG and HOME programs. It also affects funding from years 2004, 2005 and 2007. He stated the Harkey Park Project was cancelled. The project was paid for by another source of funding, freeing up this \$2,700 which was transferred to another project. The 16th Street drainage improvement project was completed with an expenditure of \$20,461. It was allocated \$120,000. The remaining funds are going to the Zone 1 street overlay project for \$99,539. The funds initially allocated for the Bridge Park Restoration Project were \$43,825 and the \$2,700 from Harkey Park was moved to this project to provide the additional funds needed to complete the parking lot. There was \$25,000 taken out of the HOME Homeowners Rehabilitation project and moved to the Lawton Support Services CHDO project. There is \$10,000 to be transferred from the HOME First Time Homebuyers project to the GPIF CHDO Operating Expenses project.

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

Hanna questioned if he had any conflicts since this was going into his ward.

Jensen stated that he knows of no Council members that have any conflicts on this particular item.

MOVED by Hanna, SECOND by Haywood, to approve the Consolidated One-Year Action Plans for FFY 2007, Change 1; FFY 2005, Change 3; and FFY 2004, Change 6; receive input from citizens, and authorize the Mayor and City Clerk to execute the implementing documents. AYE: Shanklin, Haywood, Warren, Shoemate, Hanna, Drewry, Burk. NAY: None. MOTION CARRIED

39. Consider adopting an ordinance pertaining to utilities amending Sections 7-19-1-1901 and 1902, Division 7-19-1, Article 7-19, Chapter 7; Section 22-4-1-402, Division 22-4-1, Article 22-4, Chapter 22; and adding Section 22-4-1-416, Division 22-4-1, Article 22-4, Chapter 22, Lawton City Code, 2005, by requiring any and all solid waste generated within the City be deposited at the City of Lawton landfill and a permit be obtained prior to the collection and hauling of such waste, providing for severability, codification, and establishing an effective date; and consider approving a resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 2005, to establish a fee for commercial or private haulers to transport waste and refuse to landfill. Exhibits: Ordinance 2008-_____; Resolution 2008-_____.

Mitchell stated this ordinance was generated out of a Supreme Court ruling that was passed in April 2007 and this issue has been working its way through the courts for about ten years. There is contention between private commercial haulers and municipalities on controlling their waste streams. The Supreme Court ruled that cities could control their waste streams and protect the public health and safety of its citizens. This is basically a flow control ordinance which requires that all solid waste and refuse generated within the city limits of Lawton are to be transported and disposed of in the city's municipal landfill. This would also require a permit for all commercial vendors be secured from the City of Lawton. Currently we have a \$20 inspection fee charged to each vehicle of a commercial hauler. This would also include a permit for the company to obtain a license through the City of Lawton. The effective date of this ordinance would be July 1, 2008. This would increase the revenue to the landfill but it may also increase our responsibilities by picking up additional customers.

Shanklin questioned how this would affect him.

Mitchell stated it would basically affect the commercial haulers that are now picking up commercial accounts and transporting that solid waste to some other landfill in some other community.

Burk questioned why we would care if they took it to another landfill.

Warren stated we need to make our landfill as profitable as possible.

Burk questioned if this would cost us more money to take care of the landfill. He stated we already have issues. He questioned the generated income.

Jerry Ihler, Public Works Director, stated it is really difficult to tell because some of the private haulers are not willing to share the number of accounts that they have. We do know that revenues have been less in the area of \$100,000 from previous years. As the price of fuel continues to rise, they have been seeing more of these haulers at our landfill.

Hanna questioned if we are charging them a fee.

Ihler stated we are charging these haulers the same fees as any commercial haulers which is \$28.75 a ton.

MOVED by Drewry, SECOND by Warren, to approve **Res. 08-62** and adopt **Ordinance 08-38**, waive the reading of the ordinance, read the title only and establish and effective date. AYE: Haywood, Warren, Shoemate, Hanna, Drewry, Burk, Shanklin. NAY: None. MOTION CARRIED.

(Title read by City Attorney) Ordinance 08-38

An ordinance pertaining to utilities amending Sections 7-19-1-1901 and 1902, Division 7-19-1, Article 7-19, Chapter 7; Section 22-4-1-402, Division 22-4-1, Article 22-4, Chapter 22, and adding Section 22-4-1-416, Division 22-4-1, Article 22-4, Chapter 22, Lawton City Code, 2005, by requiring any and all solid waste generated within the city be deposited at the City of Lawton landfill and a permit be obtained prior to the collection and hauling of such waste, providing for severability, codification, and establishing an effective date.

40. Consider adopting an ordinance pertaining to offenses and crimes, creating Section 16-6-1-621, Division 16-6-1, Article 16-6, Chapter 16, Lawton City Code, 2005, by prohibiting any person from willfully bypassing a security checkpoint, prohibiting any person from assisting another in bypassing a security check point, providing for a penalty for such violations, further providing for severability, codification and declaring an emergency. Exhibits: Ordinance 2008-__.

Jensen stated this code section was actually passed at the last council meeting but was done so with an improper number. This is the correct number assigned to the new code section.

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

(Title read by City Attorney) Ordinance 08-39

An ordinance pertaining to offenses and crimes creating Section 16-6-1-621, Division 16-6-1, Article 16-6, Chapter 16, Lawton City Code, 2005, by prohibiting any person from willfully bypassing a security checkpoint, prohibiting any person from assisting another in bypassing a security check point, and providing for a penalty for such violations, providing for severability, codification, and declaring an emergency.

Warren exited the meeting at 7:09 p.m.

41. Consider adopting Resolution 08-__ approving a Brownfields Economic Development (BEDI) Grant Agreement with the U.S. Department of Housing and Urban Development for Grant No. B-06-BD-40-0006 in the amount of \$1,000,000, authorizing the Mayor and City Clerk to sign the implementing documents, and authorizing submission of the agreement to HUD for final approval and funding. Exhibits: Resolution 08-__. Brownfields Economic Development (BEDI) Grant Agreement for Grant No. B-6-BD-40-0006 is on file in the City Clerk s office.

Mitchell stated this item has to do with our BEDI grant agreement with HUD and the next item it the Section 108 loan. He stated this process started approximately two years ago. He thanked Tom Aplin, Scott Meadors, John Vincent and Richard Rogalski for all their hard work. This will be an very exciting project for our downtown. Once these documents have been approved they believe that both the BEDI grant and the Section 108 loan will be released in about one month. He stated staff will come back with a final set of plans and specifications for Council approval. Once the money is in the bank, staff can proceed with soliciting bids for the construction of 2nd Street between Gore and Columbia. He stated there also may be an alternate to extend to Ferris. With the passage of this resolution he believes they have completed all of the necessary approvals required by HUD for this grant. He stated \$500,000 of the grant is used to secure the loan and the other \$500,000 can be used to acquire property. The Section 108 loan is a \$2 million loan and we are pledging future block grant monies as a repayment source for that loan.

Mayor Purcell stated that the records should reflect that Council member Warren was not in the room for the discussion or the vote on this item.

MOVED by Drewry, SECOND by Shoemate, to approve **Res. 08-63**. AYE: Shoemate, Hanna, Drewry, Burk, Shanklin,

Haywood. NAY: None. ABSENT: Warren. MOTION CARRIED.

42. Consider adopting Resolution 08-__ approving a Section 108 Contract for Loan Guarantee Assistance through the U.S. Department of Housing and Urban Development (HUD) in the amount of \$2,000,000, authorizing the Mayor to execute all necessary loan documents, and authorizing submission of said loan documents to HUD for final approval and funding. Exhibits: Resolution No. 08-__. The HUD Transmittal Letter; Contract for Loan Guarantee Assistance; Pledge, Assignment and Security Agreement; Note; City Attorney s Legal Opinion; and other miscellaneous loan documents are on file in the City Clerk s office.

Mitchell stated we were also successful in securing two enhancement grants through the Oklahoma Department of Transportation. Not only do we have the \$2 million from the Section 108 loan, we also have another \$1 million from ODOT. He stated all of this money has to be spent on this project.

Shanklin questioned if the \$1 million had to be paid back.

Mitchell stated the enhancement grants from ODOT do not have to be paid back.

Haywood questioned the payment we will be making on the Section 108 loan.

Aplin stated the last time he looked at this was back in January and on average we will be paying approximately \$160,000 a year which includes principle and interest. The amount will depend on the interest rate the day of the public offering.

Jensen stated there is one correction to make on this resolution. He stated staff added a small phrase to the resolution.

Scott Meadors, Assistant City Attorney, stated in the fourth paragraph they have added the following words to the end of that paragraph: and maintain said debt service reserve account in the amount of \$500,000 subject to any annual appropriation.

Mayor Purcell requested that the record indicate that Council member Warren was not in the room during this discussion or vote.

MOVED by Drewry, SECOND by Burk, to approve **Res. 08-64** as amended. AYE: Shoemate, Hanna, Drewry, Burk, Shanklin, Haywood. NAY: None. ABSENT: Warren. MOTION CARRIED.

Warren entered the meeting at 7:18 p.m.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Drewry recognized the Museum of the Great Plains and suggested that everyone take the time to go through the museum. She also recognized Dr. Rosemary Bellino for her work in the beautification of Lawton. She stated that Dr. Bellino does not receive the recognition that she deserves. She stated she received a call from someone at 815 NW 49th and she tried two different phone numbers and neither one was correct. She wanted him to know that she will be by his residence to discuss the problem.

Burk stated the Holiday House will be open for the Armed Forces Day events in Elmer Thomas Park.

Haywood recognized members of the Brentwood and Oaks Neighborhood Association who were in attendance.

Warren stated he received some great comments about Lawton from a contractor from Atlanta who is here working at Fort Sill.

Mayor Purcell stated that we are fortunate in that we are one of the few states who have two civilian aides to the Secretary of the Army, MGR Toney Strickland and Dr. Gib Gibson. He stated during the trip to Washington, D. C. with the Chamber, the group received a 20 minute briefing by the Secretary of the Army. He stated it is unusual that 35 people from a community would get a visit along with the Assistant Secretary of the Defense. He stated they recognize that this community is willing to go to Washington and represent this community. He reminded everyone of the Armed Forces Day Parade on Saturday, May 17th.

There being no further business to consider, the meeting adjourned at 7:29 p.m. upon motion, second and roll call vote.

JOHN P. PURCELL, JR., MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK