



MOVED by Drewry, SECOND by Haywood, to table the claim of Bob and Jean Baird in the amount of \$1,650.00. AYE: Haywood, Warren, Shoemate, Hanna, Drewry, Burk. NAY: None. MOTION CARRIED.

MOVED by Warren, SECOND by Burk, to deny the claim of Shafic and Patricia Malouly in the amount of \$1,000.00. AYE: Warren, Shoemate, Hanna, Drewry, Burk, Haywood. NAY: None. MOTION CARRIED.

Mayor Purcell stated that Mr. Phillips is in attendance to discuss his claim.

James Phillips, 50 Cox Road, stated the sewer backed up in the toilet and the tub and flooded the bathroom, master bedroom and into the living room of his rental property. He has had to replace the carpet and sheetrock. They have gone to a great expense to get the property livable. His tenants have been confined to living in the living room and the two other bedrooms. He stated the tenant is also in attendance to answer any questions. The City Attorney's office was unable to contact the tenant during the investigation.

Jensen questioned why the City of Lawton was not called. There is no dispute that there was a sewer backup, the question is whether it was in the service line, which is the claimants responsibility, or whether the back up was in the sewer main. They had no way of knowing because the City of Lawton was not called.

Mr. Phillips stated that by the time his tenant came home the water had already receded.

Jensen stated that does not change the fact that it could have been an obstruction in the service line and if the City of Lawton had been called they would have rodded the main and they may or may not have found an obstruction. He cannot recommend approval of the claim when the burden of proof is on the claimant and we have nothing in which to base a recommendation.

Mr. Phillips stated there was no one in the house hours before the back up so there was no water used and there was no way there could be a back up in the service line, it had to be in the City main.

Jensen stated he cannot recommend approval based on assumptions.

Mr. Phillips stated there is no way there could have been any water in the service line. It had to have come from the city main.

Haywood questioned if there had been any problems in this area before.

Jensen stated there have been no backup problems in the past three years. He stated they did find one prior stoppage in the main on the third pipe segment down in January of 2006. He stated that by itself, it is not enough to recommend approval of the claim.

Mr. Phillip stated that repair was made because he called the City because he had a sewer backup in his yard. Since that time he has replaced his sewer line to make sure he had no problems.

Haywood questioned Mr. Thomas, the tenant, regarding why he could not be located.

Mr. Thomas stated he did not have a phone at that time.

Jensen stated the city investigator asked Mr. Phillips to have his tenant contact him and he never heard from Mr. Thomas.

Mr. Phillips stated that Mr. Thomas did call but was unable to contact anyone.

Shoemate questioned when Mr. Phillips replaced his sewer line.

Mr. Phillips stated he replaced the line in 2006.

Warren questioned when we required back flow valves.

Mitchell stated we have discontinued that practice. He stated it does not preclude the homeowner from installing one.

Burk stated residents need to make sure and contact the City of Lawton when they have a backup so that we can make sure it is not our problem or we can solve it if it is our problem. He does not see how we can do anything with this claim since we were not informed.

Warren stated that Mr. Phillips can appeal to District Court.

MOVED by Burk, SECOND by Warren, to deny the claim of James W. and Betty J. Phillips in the amount of \$4,500.00.  
AYE: Shoemate, Hanna, Drewry, Burk, Warren. NAY: None. ABSTAIN: Haywood. MOTION CARRIED.

3. Consider adopting a resolution ratifying the action of the City Attorney and the City Manager in directing our third party administrator to make payment on the judgment in the Workers' Compensation case of Dwight Franklin in the Workers' Compensation Court, Case No. 2007-02330 A. Exhibits: **Resolution 08-66**.
4. Consider renewing the Retainer Agreement for Professional Services with Granville D. Long, to provide professional investigative services to the City of Lawton, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Agreement.
5. Consider approving an Agreement between the North Side Chamber of Commerce Inc., and the City of Lawton to fund activities by the Chamber designed to encourage, promote and foster economic development in the City of Lawton, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Agreement.
6. Consider amending the outside water agreement between the City of Lawton, Oklahoma, and C.M. Kephart, by substituting the Kephart Water Association as the Buyer and by increasing the maximum number of individual meters from five to six for this water association. Exhibits: First Amendment to Agreement for Sale of Treated Water is on file with the City Clerk.
7. Consider approving an agreement with Garver Engineers for professional engineering design services for the Rogers Lane (Flower Mound to I-44) Roadway Project #2008-1. Exhibits: Location Map.
8. Consider accepting the Lake Ellsworth Pump Station Electrical Project #2007-5 as constructed by Ramsey Ward Electric Co. and placing the Maintenance Bond into effect. Exhibits: None.
9. Consider authorizing the Mayor to execute a Project Cooperation Agreement with the Department of the Army for design and construction assistance for the South Wolf Creek Expansion/Upgrade Project. Exhibits: Project Cooperation Agreement is on file in the City Clerk s Office.
10. Consider a request to provide payment in lieu of stormwater detention for proposed greenhouse at Outdoor Concepts, 1012 SW 2<sup>nd</sup> Street. Exhibits: Site plan showing proposed addition and Letter of request from Landmark Engineering.
11. Consider accepting an engagement letter for technical accounting and consulting services with the firm of Crawford & Associates, P.C., and provide guidance to staff as appropriate. Exhibits: Engagement Letter with Crawford & Associates, P.C.
12. Consideration and approval of a resolution approving indebtedness (The Note) of the Lawton Water Authority in the amount of \$2,375,000 for the purpose of acquiring and installing energy conservation measures for lease to the City to be financed with the proceeds of the note; waiving competitive bidding; approving documents including a lease purchase agreement with the Authority, and other matters relating thereto. Exhibits: **Resolution No. 08-67**.
13. Consider approving the construction plat for Dove Creek Addition, Part 2, subject to conditions. Exhibits: Plat Map.
14. Consider approving the Memorandum of Understanding between the City of Lawton and the Lawton Metropolitan Planning Organization for metropolitan transportation planning for Fiscal Year 2008-2009 for the Lawton metropolitan Area and authorize the Mayor to execute. Exhibits: Memorandum of Understanding on File in City Clerk s Office.
15. Consider endorsing the Federal Fiscal Years 2009, 2010, 2011 and 2012 Transportation Improvement Program for the Lawton Metropolitan Area Transportation Study area. Exhibits: FFY 2009-2012 TIP distributed under separate cover.
16. Consider endorsing the Fiscal Year 2008-2009 Unified Planning Work Program for the Lawton Metropolitan Transportation Planning Process. Exhibits: FY 2008-2009 UPWP is on file in the City Clerk s Office.
17. Consider approving the Memorandum of Understanding between the City of Lawton and the Lawton Metropolitan Planning Organization for Congestion Mitigation Air Quality programs and projects during Fiscal Year

2008-2009 and authorize the Mayor to execute. Exhibits: Memorandum of Understanding on file in the City Clerks Office.

18. Consider extending the contract (CL07-050) Mowing & Litter Contract with Teen Challenge of Cache, OK. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.
19. Consider extending the contract (RFPCL07-052) Employee Assistance Program with Deer Oaks EAP Services LLC of San Antonio, TX. Exhibits Department Recommendation, Price Sheet, Contract Extension Form.
20. Consider awarding (CL08-052) AUMA Actuators to Automated Valve & Control of Houston, TX. Exhibits: Department Recommendation, Abstract of Bids.
21. Consider awarding (CL08-051) Traffic Signal Arms, Poles & Hardware to Pelco Structural LLC of Claremore, OK. Exhibits: Department Recommendation, Abstract of Bids.
22. Consider awarding (CL08-043) Alternate Daily Cover (ADC) to Landfill Service Corporation of Apalachin, NY. Exhibits: Department Recommendation, Abstract of Bids.
23. Consider approving contract for City of Lawton audit (CL08-061). Exhibits: Department Recommendation, Abstract of Bids.
24. Consider approving appointments to boards and commissions. Exhibits: None.
25. Consider approval of payroll for the period of May 5 - 18, 2008.

BUSINESS ITEMS:

26. Hold public hearings and adopt resolutions declaring the structure(s) at: 504 S.W. Lee Blvd., 1411 S.W. Lee Blvd., 1209 S.W. F Avenue and 1207 S.W. New York Avenue to be dilapidated public nuisances, thus causing a blighting influence on the community and detrimental to the public s health and safety. Authorize the City Attorney to commence legal action in district court to abate each nuisance. Further authorize Neighborhood Services to solicit bids to raze and remove each dilapidated structure, if necessary. Exhibits: Four Resolutions. Summary documents with supporting photos, reports from the Fire Marshal, Housing Inspectors, and case history are available from Neighborhood Services.

504 SW Lee Blvd

Tony Griffith, Neighborhood Services Supervisor, presented photographs of the property. He stated the structure has utilities but the billing address is 506 SW Lee.

Mitchell stated that when they refer to utilities they just mean water.

PUBLIC HEARING OPENED.

James Yong Kim, 7619 NW Castlerock Place, stated he has lived in Lawton almost thirty years and has been taking care of his wife who was injured in a car accident. He is trying to fix the building, both inside and outside.

Mayor Purcell explained that if the City Council passes the resolution, he will have a period of time to obtain a remodel permit and repair the building.

PUBLIC HEARING CLOSED.

MOVED by Haywood, SECOND by Hanna, to adopt **Resolution 08-68** declaring the structure at 504 SW Lee Blvd as a dilapidated public nuisance. AYE: Hanna, Drewry, Burk, Haywood, Warren, Shoemate. NAY: None. MOTION CARRIED.

1411 SW Lee Blvd

Griffith presented photographs of the property. He stated the structure has been without utilities since April 2004. He stated that staff would provide the owner with a list of things to bring this structure up to code.

PUBLIC HEARING OPENED.

Adam Matthews, 3303 Overland Drive, stated he served two terms on the City Council. He stated they worked to help the citizens. He has a television shop at 1413 SW Lee Boulevard. He uses 1411 for his overflow of televisions to be fixed. There is a sign on the door that says to go next door so the public does not go into this building. He has been in business since 1965 and he bought 1411 forty years ago. He built 1413 in 1970. They use this building as storage. He would like to see more empathy towards the poor people because there are some people hurting over this demolition. He questioned what was meant by bringing this up to code.

Mayor Purcell suggested Mr. Matthews get with Mr. Griffith who would explain the code requirements.

Mr. Matthews stated he does not have water or gas at this location. He does have the electricity turned on.

Haywood stated that Mr. Matthews was the first African American to be elected to the City Council and he really appreciates him.

Shoemate questioned if there were rules or restrictions on storage buildings or sheds. He stated most storage buildings don't have water or gas.

Griffith stated there are requirements for storage buildings. It is called a special use. The License and Permit Center has all of that information.

Shoemate questioned if Mr. Matthews could get a license to change the structure to a storage building.

Griffith stated staff would have to determine what the building was used for and the things that he would have to have in that building.

Warren stated there are also certain zoning requirements for storage.

Burk stated that there is no question that Mr. Matthews is a wonderful citizen, but he needs to get with staff and let them help him figure out what needs to be done.

PUBLIC HEARING CLOSED.

MOVED by Burk, SECOND by Warren, to adopt Resolution 08-69 declaring the structure at 1411 SW Lee Blvd as a dilapidated public nuisance. AYE: Drewry, Burk, Warren, Hanna. NAY: None. ABSTAIN: Haywood, Shoemate. MOTION FAILED.

1209 SW F Avenue

Griffith presented photographs of the property. He stated there are three vacant structures on this address. He stated they have all been without utilities since November 2003.

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

MOVED by Shoemate SECOND by Drewry, to adopt **Resolution 08-69** declaring the structure at 1209 SW F Avenue as a dilapidated public nuisance. AYE: Burk, Haywood, Shoemate, Hanna, Drewry. NAY: None. ABSTAIN: Warren. MOTION CARRIED.

1207 SW New York

Griffith presented photographs of the property. He stated the structure is vacant. It has been without utilities since December 2007, but the titleholder had the utilities turned back on a week ago. He stated staff has cleaned up the property several times.

Haywood stated that he once lived at 1115 Pennsylvania and this was one of the best looking homes in Lawton View. The home has really gone down since then.

PUBLIC HEARING OPENED.

Jerry Barfield, 1207 SW New York, stated he told staff eight months ago that he was unemployed and he was told he would have the opportunity to clean up the yard. He cleaned up the yard several times. Staff told him that if he could get his utilities back on, the City would come in and help him with the property. At that time he was filing for disability and he gave up his suit with the Social Security Administration to go back to work to get his utilities turned back on so that the City of Lawton would help him. He has been working for three months but other things have been a priority rather than rebuilding his home. He does not dispute that the house is in disrepair. He has to go to his son's home across the street to go to the bathroom or take a shower. He had a church group that told him they would put a new roof and siding on the home.

Haywood questioned if Mr. Barfield had anything in writing from the church.

Mr. Barfield stated they have not contacted him. He does not have a phone so he cannot contact them.

Haywood questioned what would happen if the City Council passes this resolution and they have to put Mr. Barfield out of his home. What would they do in this situation?

Mitchell stated that Mr. Barfield could apply for a rehab grant through the Community Development Block Grant program. He does not know how he could get all the work done for the monetary limit of the grant. It is \$20,000 or \$25,000.

Mayor Purcell stated he would be better off to just move to a more livable home.

Haywood stated he told Mr. Barfield the same thing. What do they do for Mr. Barfield after they pass this resolution? He is a citizen of Lawton. Do they tear his house down in six months?

Mitchell stated the City Council typically reserves this process for those homes that are vacant and do not have utilities. He stated this is new ground for the City Council.

Drewry questioned if there was housing available through the Housing Authority.

Mitchell stated that would be the best bet. He cannot stay in that home long term.

Warren questioned if we would be liable if something happened to Mr. Barfield in the house and the City Council did not do what we normally would do in this circumstance.

Jensen stated we would not assume any liability for a situation like that. He stated he did not understand how a relative would let him live in this house.

Mr. Barfield stated he does not accept help from his relatives.

Mitchell suggested Mr. Barfield get in touch with the Lawton Housing Authority and apply for safe housing.

Mr. Barfield stated that this house is all he has.

Warren stated that if this is all he has, he has nothing. The best thing he can do is to work with someone and get into a situation where he has some hope of someday being better than where he is at now. He would not spend another penny on that house. He should sell that home to someone that can knock it down and build on that lot.

Mitchell suggested he also may want to talk with Habitat for Humanity.

Shoemate stated there is a Habitat for Humanity group out of First Christian Church.

Mr. Barfield stated that the City of Lawton has never been on his property to clean it up.

Mayor Purcell stated everyone understands that Mr. Barfield needs a new place to live. He needs to contact these groups that have been suggested tonight. He stated it will not make a difference if they give him more time.

Mr. Barfield stated all he is asking for is the time to try and fix his property.

PUBLIC HEARING CLOSED.

MOVED by Haywood, SECOND by Hanna, to adopt **Resolution 08-70** declaring the structure at 1207 SW New York as a dilapidated public nuisance. AYE: Haywood, Warren, Hanna, Drewry, Burk. NAY: None. ABSENT: Shoemate. MOTION CARRIED.

Mayor Purcell requested item #30 be addressed.

30. Receive the Actuarial Valuation Report for the pension fund from Dean Actuaries, LLC. Exhibits: Memorandum from Retirement Trust for General Employees Pension Fund. Actuarial Valuation Report is distributed under separate cover. Letter dated May 12, 2008 to AFSCME Local 3894.

Paul Ellwanger, member of the Pension Trust Commission, distributed the actuarial report and a memorandum from the Pension Trust Commission. He stated the report shows a serious under funding of the approved benefits.

The report recommends the contribution rate be increased as soon as practical to meet certain required levels. The City of Lawton is the sponsor of the pension plan and sets contribution rates and benefits.

Mr. Ellwanger introduced Pension Trust Commission members in attendance. Those members are Joe Mercado, Bill Kent and Jerry Ihler. He introduced their investment advisor Jerry Armstrong and the actuarial, Chuck Dean. He stated Mr. Dean is here to discuss the actuarial report and help to determine how we can make improvements and changes to the unresolved, unfunded problem we have.

Mr. Dean stated that the plan needs some effort to be squared away. They looked at the actuarial assumptions that are used in the evaluation and they used the prior set of assumptions that had been used in 2005 and 2003, but they revised those assumptions to make them best estimate assumptions and a more solid basis for projecting the future which gives us a better measurement of what the funded status of the plan is and what the contributions will need to be to maintain the plan on a sound basis. He stated on page eight of the report there are several columns. He stated each column shows the result of that change. The first change was to look at an updated mortality table. The table used in the past was from 1984. This table also includes a projection for future mortality improvement. People will live longer than under the base assumptions and the effect is large. In the past this was not taken into account and we had an already outdated mortality table that would only become more and more outdated. This shows that this by itself requires significantly more money. He stated they also looked at updating turnover. They used the experience of about 120 Oklahoma municipalities. There was not enough data to study the City of Lawton employee turnover pattern. They worked with the Oklahoma Municipal Retirement Fund. They also looked at retirement rates. In real life some retire at 55, some retire at 60 or 62, 65 and some keep working. They could engineer what the probability of retirement was at every age. They also made a change that recognized that rather than invest in fixed income, we need to change the investment policy of the plan to invest in equities as well as fixed income. The rates of return on stocks have been greater than the rates of return on bonds over long periods of time. He stated the contribution that should be made to this plan by the city is 12.96% which is much more than the current contribution. In order to meet the costs for the benefits that are accruing now, plus to pay off the unfunded actuarial liability over a thirty year period by level dollar mortgage type payments, that requires the 12.96% percent of pay. He stated the nature of a defined benefit pension plan is absolutely wonderful. It is significant retirement income that the employee cannot outlive. This meets the real needs of people. When it was established in the 70 s, the City of Lawton was undertaking the responsibility to make the contributions to provide these benefits. Over time the City may have let the increases get ahead of the contributions were going to be. He stated they are recommending that the City contribution be raised as soon as practical to the actuarial required level. The plan provisions could be changed to reduce the future cost of the program. Contributions must be increased if we don't the provisions of the plan, or change the provisions of the plan to be less expensive or some kind of balance of those two ideas.

Mitchell questioned where it shows the employees contribution.

Mr. Dean stated on page 3 it shows that the employee contributions are 4.8% of compensation. He stated employee contributions are not as powerful in funding the program because if employees leave after ten years of service they get their money back whereas the City does not. The financial soundness of the plan does not depend on who makes the contribution.

Mayor Purcell question if the suggested 12.96% was just the City's portion and it does not include the employee portion.

Mr. Dean stated it assumes the 4.8% as a provision of the plan.

Mayor Purcell stated if the City Council passes the next agenda item, the City's contribution would increase to 8%.

Mr. Dean stated if they go to 8% and another % from the employee, that would be helpful but it is still insufficient. But this increase coupled with further increases in the future or adjustments to the benefits themselves can be made to work. This is all solvable. This is a long term financial undertaking.

Mayor Purcell stated they need to do something about the contribution side or look at the benefit side. Right now the monthly accrued benefit is 2.3% for every year worked. Teachers in the state of Oklahoma only get 2% for each year worked. He stated we could adjust that downward which would help the situation with how much we pay out.

Mr. Dean stated there is leverage on the liability side. When you change the benefits, you change the liabilities. Assets stay the same. Generally you would have legal issues and you really can't take away something a person has already earned.

Mayor Purcell stated this could affect any new hires. He questioned if the Pension Trust needed some City Council input.

Mr. Ellwanger stated the Pension Trust Commission feels this is a serious problem and they would like some

direction from the City Council. They need to consider certain studies based upon contribution levels and benefit levels. They need direction from the City Council to initiate those studies. He would recommend that one or two Council members be on the Pension Trust Commission or advise them on a direction.

Mayor Purcell suggested two Council members meet with the Pension Trust Commission and work the issue as an ad hoc group to look at benefit adjustments and contributions by the City and the employee.

Council members Drewry and Burk agreed to meet with Pension Trust Commissioners.

Mitchell recommended that either he or someone from the financial division also be involved.

27. Consider approving an ordinance amending Section 17-3-4-336, Division 17-3-4, Article 17-3, Chapter 17, Lawton City Code, 2005, by increasing the maximum contribution by the City of Lawton to the retirement system to eight percent and members pay into the fund at the rate of five and thirty hundredths percent each pay period, providing for severability, and declaring an emergency. Exhibits: Ordinance No. 08-\_\_\_.

Mitchell stated in the budget workshops last year, provisions were made to increase the City's contribution to the retirement plan to 8%. At that time they were in discussion regarding who would be included in the AFSCME bargaining unit. Those positions were certified in December and staff has been negotiating a contract with AFSCME for eight or nine months. Once the contract was in place in April, they felt they could move forward with this change. In the budget discussions, there was an agreement that the City would increase its contribution by % provided that the employees increase their contribution by %. The employee contribution would go into effect July 14, 2008. Notice was given to the bargaining unit of the proposed change on May 12<sup>th</sup>.

Mayor Purcell questioned if this was negotiated as part of the contract.

Mitchell stated the retirement program is outside the elements which are included in the union since we have a self funded retirement program. Our program is not subject to negotiations with the bargaining unit.

MOVED by Drewry, SECOND by Shoemate, to adopt **Ordinance 08-40** waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Haywood, Warren, Shoemate, Hanna, Drewry, Burk. NAY: None. MOTION CARRIED

(Title read by City Attorney) Ordinance 08-40

An ordinance pertaining to personnel polices and procedures amending Section 17-3-4-336, Division 17-3-4, Article 17-3, Chapter 17, Lawton City Code, 2005, by increasing the maximum contribution by the city to the retirement system to eight percent and members pay into the fund at the rate of five and thirty hundredths percent each pay period, providing for severability, and declaring an emergency.

28. Consider an ordinance amending Section 10-4-402, Article 10-4, Chapter 10, Lawton City Code, 2005, by allowing the police chief to dispose of or auction off property, money or legal tender that has been in the police chief's possession for ninety (90) days, further providing for severability, codification and establishing and effective date.

Exhibits: Ordinance 08-\_\_\_.

Jensen stated that currently the City Code requires the Chief of Police to hold properties for six month. The property can be disposed of after that period of time. The State Statute only requires ninety days.

MOVED by Haywood, SECOND by Burk, to adopt **Ordinance 08-41** waive the reading of the ordinance, read the title only. AYE: Haywood, Warren, Shoemate, Hanna, Drewry, Burk. NAY: None. MOTION CARRIED

(Title read by City Attorney) Ordinance 08-41

An ordinance pertaining to disposition of personal property - general procedures, amending Section 10-4-402, Article 10-4, Chapter 10, Lawton City Code, 2005, by allowing the police chief to dispose of or auction off property, money or legal tender that has been in the police chief's possession for ninety (90) days, providing for severability, and establishing an effective date.

29. Consider accepting the annual audit report of the City of Lawton for the year ending June 30, 2007. Exhibits: Copies of the audit report will be distributed at the Council meeting.

**(THIS ITEM WAS STRICKEN FROM THE AGENDA)**

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER



Mitchell distributed a recap of budget discussions and information which will be discussed at the budget meeting on May 29th.

The Mayor and Council convened in executive session at 7:58 p.m. and reconvened in regular, open session at 8:21 p.m. Roll call reflected all members present.

**BUSINESS ITEMS: EXECUTIVE SESSION ITEMS**

31. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the case styled IAFF Local 1882 and Steve Terry vs. City of Lawton, Case No. FMCS 08-51481-8, and if necessary, take appropriate action in open session. Exhibits: None

No action was taken on this item.

There being no further business to consider, the meeting adjourned at 8:23 p.m. upon motion, second and roll call vote.

JOHN P. PURCELL, JR., MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK