

Meeting of 2008-7-22 Regular Meeting

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
JULY 22, 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

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 Councilmember Shoemate, 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
Jeff Patton, Ward Six
 Stanley Haywood, Ward Seven
 Randy Warren, Ward Eight

ABSENT: Robert Shanklin, Ward Five

PRESENTATION OF PROCLAMATION FOR RODEO DAYS

Mayor Purcell made a presentation to representatives from the Lawton Rangers proclaiming August 6, 7, 8, and 9 as Lawton s Rodeo Days 2008.

Vincent introduced Kelea Fisher, the new Assistant City Attorney.

Billie Whipp, Arts and Humanities Division, stated the City of Lawton 107th Birthday celebration is scheduled for August 2nd at 7:00 p.m. in Elmer Thomas Park at the amphitheater stage. This year they are partnering with the Lawton Arts and Humanities Council in order to present a free concert at 8:00 p.m. featuring Arvel Bird.

AUDIENCE PARTICIPATION:

Clarice Phillips, 3902 NW Denver, stated she would like to talk about the opening area of the Enclave housing addition off of 38th Street. She stated it has been an eyesore for three years. She was told by city staff that once all of the homes are finished this will be a gated area. She stated she if faced with this eyesore every time she comes up Sante Fe. She distributed photos of the entrance. She stated no one can tell her who is responsible for the upkeep of the easement including the mowing of the grass and weeds. It needs to be cleaned up. She requested that someone get back with her with some answers.

Shoemate stated he will get back with Mrs. Phillips.

Kim Shahan, Parks and Recreation Department, stated that when there were no homes on this lot, the lot was maintained by the owner of the property. Since the development, there has been no direction given to his department that this would be an easement that has been assigned to the City of Lawton.

Buford Rooks, 6410 NW Compass Drive, stated he read that the City is getting 80% of the money for the 2nd Street project through government bonds or grants.

Mitchell stated that 90% of this will be paid through state and federal money.

Mr. Rooks questioned where the other 10% was coming from.

Mitchell stated it will come from the local budget through the CIP program.

Mr. Rooks stated that six months ago the paper said that the LATS program was doing well and during the budget year they asked for \$256,000 for operational costs.

Mitchell stated the increase was all fuel related due to the increase in the cost of gasoline.

Mr. Rooks stated his next issue is about the boathouse fees. About 80% of the owners are retired and disabled living on a fixed income and they cannot afford the increase. Lake Ellsworth is just a fishing lake and there is no recreation going on out there. He is a boathouse owner and he cannot afford it.

Mayor Purcell stated the boathouse fees are now being discussed by the Lakes and Lands Commission who will make a recommendation to the City Council once they have completed their study.

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 Warren, to approve the Consent Agenda. AYE: Hanna, Drewry, Burk, Patton, Haywood, Warren, Shoemate. 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: Michael and Marie Washington (**Res. 08-94**) the amount of \$2,480.00, Northwest Baptist Church in the amount of \$4,045.40 (**Res. 08-95**), Juan and Maria Ayala in the amount of \$603.03 (**Res. 08-96**). Exhibits: Legal Opinions/Recommendations, Resolution No. ____, Resolution No. ____, Resolution No. ____.

2. Consider renewing and amending the professional services agreement with John (Jack) Mackey for various matters involving civil litigation, and authorize the Mayor and City Clerk to execute the agreement. Exhibits: Retainer Agreement for Professional & Legal Services on file in the City Clerks Office.

3. Consider approving an Outside Water Sales Contract with Dan Crawford, and authorize the Mayor and City Clerk to execute the Contract. Exhibits: Location Map. Contract is on file in the City Clerk s Office.

4. Consider approving contract with Miller Pro Audio for sound and lighting equipment and operators for the COL-Ft. Sill 107th Birthday Celebration hosted in conjunction with the Lawton Arts & Humanities Council s 2008-09 Native American Program on August 2, 2008. Exhibits: Contract on file in City Clerk s office.

5. Consider approving contract with Arvel Bird to perform at the COL-Ft. Sill 107th Birthday Celebration hosted in conjunction with the Lawton Arts & Humanities Council s 2008-09 Native American Program on August 2, 2008. Exhibits: Contract on file in City Clerk s office.

6. Consider approving contract with Journey Productions for technical support services for the 2008 International Festival for September 22-30, 2008. Exhibits: Contract on file in City Clerk s office.

7. Consider adopting a resolution authorizing the Mayor and City Clerk to execute a project agreement for maintenance and funding with the Oklahoma Department of Transportation (ODOT) for improvements on the NW 67th Street (Cache Road to Rogers Lane) Reconstruction Project #2003-7, Federal-aid Project Number STP-116B(138)UR, State Job No. 23411(04) Construction. Exhibits: **Resolution 2008-97**, ODOT letter dated June 10, 2008. Project Agreement is on file in the City Clerk s office.

8. Consider rejecting all bids for Police Motorcycles as no returned bid packets met the minimum standards set by the Spec Committee. Exhibits: None.

9. Consider and take action with respect to a resolution relating to \$3,000,000 general obligation limited tax bonds for economic and community development improvements (original high school project); fixing the amount of bonds to be sold, providing for the maturity of the bonds, fixing the time and place the bonds are to be sold and authorizing the clerk to give notice of said sale as required by law. Exhibits: **Resolution 08-98**.

10. Consider and take action with respect to a resolution relating to \$8,000,000 general obligation bonds for sewer system improvements; fixing the amount of bonds to be sold, providing for the maturity of the bonds, fixing the time and place the bonds are to be sold and authorizing the clerk to give notice of said sale as required by law. Exhibits: **Resolution 08-99**.

11. Consider extending the contract (RFPCL08-007) City Employee Accidental Death Insurance with International

Insurance Brokers LTD of Tulsa, OK for Zurich American Insurance Co. of Dallas, TX. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.

12. Consider extending the contract (RFPCL07-053) Health and Dental Third Party Administrator with Blue Cross Blue Shield of Oklahoma City, OK. Exhibits: Department Recommendation, Administrative Fee Exhibit, Contract Extension Form.

13. Consider extending the contract (CL08-002) Hydraulic Pump & Cylinder Repair with Horizon Hydraulics Inc of Oklahoma City, OK. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.

14. Consider rejecting bids for (CL08-053) Filter Media Change-Out, Granulated Activated Carbon. Exhibits: Department Recommendation, Abstract of Bids.

15. Consider extending the contract (RFPCL05-006) Lease of Office Facilities for Housing & Community Development with K.W. & W Inc of Lawton, OK. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.

16. Consider extending the contract (CL07-001) Precast Concrete Manholes with Baray Enterprise Inc/Nance Precast Concrete of Piedmont, OK. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.

17. Consider extending the contract (CL07-046) Electric Motor Repair with J&W Electric Motor Co of Lawton, OK. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.

18. Consider extending the contract (CL07-002) Lawton Arts & Entertainment Magazine with ColorGraphics The Print Shop Inc. of Lawton, OK. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.

19. Consider approval of payroll for the period of June 30 July 13, 2008.

OLD BUSINESS ITEMS:

20. Consider an ordinance amending Section 4-2-1-213, Division 4-2-1, Article 4-2, Chapter 4, Lawton City Code, 2005, by reducing from three to two the number of violations of the liquor, beer, or gambling laws that serve as grounds for denial, suspension, or revocation of the City's beer license, providing for severability and declaring an emergency. Exhibits: Ordinance 2008-___.

Vincent stated this item was originally agended by Councilmember Warren and it was tabled to find out the maximum penalties for violation. He stated there is a \$750 fine and/or sixty days in jail. However, on first offense the judge is fining them \$350, on second offense the fine goes up and the third offense is the maximum.

Patton stated in Texas, the actual clerk is licensed through the state and if that person is convicted of selling beer to a minor, that clerk not only loses their job, but they lose their license. He stated he would like the state to look at doing something like that.

Warren stated the answer is for the state to change the licensing structure because currently the only person paying the fine is the person selling the alcohol. The owner does not suffer for the violation. This would not be a big change, just changing it from three strikes to two.

Burk stated they should be going after the clerk selling it, but they would also be hurting the business owner if they not longer were able to sell beer through their little grocery store. That is a big money maker for some of these businesses. They may want to look at the business owner getting a fine as well as the clerk. Many businesses have a hard time finding anyone to work and maybe they should find something a little friendlier than always trying to close a business.

Drewry stated when they attended a meeting in Duncan and discussed the problems with young people buying alcohol and drinking and driving, it is a major problem all over this state and in our area. She stated they have to start somewhere and this is the only thing available to them.

Burk questioned if they could fine the business owner as well?

Vincent stated there used to be an ordinance that stated that the business owner was presumed to have knowledge of the actions of their agent, but that was dropped out and they couldn't do that.

Mayor Purcell stated the issue is that you either give them two chances or three. There will still be the same problem if they continue to do it.

Warren questioned if the owner could appeal to district court.

Vincent stated there is a hearing, it is not just an automatic revocation of the license.

Shoemate stated he does not approve of selling beer to minors, but he hates to put someone out of business.

Warren stated with the way things are set up now with the look of the driver licenses, you have to almost intentionally sell to that minor. They have to either not ask for an ID or not even look at it.

Haywood questioned what happens if they have a false ID.

Vincent stated that is a different situation. If a person presents a false ID to the clerk, the person that is underage has committed the crime.

MOVED by Warren, SECOND by Drewry, to adopt **Ordinance 08-51** waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Drewry, Patton, Haywood, Warren, Shoemate. NAY: Burk, Hanna. MOTION CARRIED. EMERGENCY FAILED.

(Title read by City Attorney) Ordinance 08-51

An ordinance pertaining to low point beer amending Section 4-2-1-213, Division 4-2-1, Article 4-2, Chapter 4, Lawton City Code, 2005, by reducing from three to two the number of violations of the liquor, beer, or gambling laws that serve as grounds for denial, suspension or revocation of the city's beer license, providing for severability, and establishing an effective date.

NEW BUSINESS ITEMS:

21. Hold a public hearing and consider adopting a resolution approving the 2030 Land Use Plan. Exhibits: Resolution No. 08-___, 2030 Land Use Plan (sent separately) and CPC Minutes.

Richard Rogalski, Planning Director, stated over the past two and one-half years the Land Use Steering Committee has been involved in the development of the 2030 Land Use Plan (LUP). Membership of the Steering Committee included two members from the CPC, one member of the City Council, the Lawton Chamber of Commerce, Fort Sill, Cameron University, Lawton Public Schools, and one developer. This LUP has been prepared in accordance with Title 11, Oklahoma Statutes and sound land use planning principles to recommend the best physical development of the community.

The 2030 LUP contains an analysis of the social, economic, recreational and physical environments of Lawton. Using this analysis the Land Use Steering Committee recommended the land use categories and densities depicted upon the 2030 LUP Map. On October 18, 2005 a community visioning meeting was held to receive input from organizations and committees as well as the general public. The comments received were reviewed, and many were included in the draft plan. A public review of the draft plan and map was held on May 29, 2008.

The City Planning Commission held a public hearing and approved the 2030 Land Use Plan on June 26, 2008.

The text of the plan is substantially the same as the 2025 Land Use Plan with updates of the statistics. The proposed changes to the map include:

- designating lots fronting arterials as Professional (with the exception of Gore Boulevard and Fort Sill Boulevard)
- designating the north side of Ferris Avenue between NW 17th Street and Sheridan Road and the south side of Ferris Avenue between Fort Sill Boulevard and Sheridan Road as Professional (except for lots currently designated as Commercial)
- designating lots on the north side of SE Lee Boulevard (SH 7) between SE Flower Mound Road and SE 45th Street to Commercial
- adding a designation of Downtown Urban Renewal Area for the areas included in the D-6, Downtown I, and Civic Center Urban Renewal Plans
- deleting school sites and park sites from the center of the undeveloped sections and added a notation on the Land Use Map stating Future school developments are not depicted on this map and will be added when development warrants.
- deleting some of the Commercial and Residential/High Density nodes at intersections of section lines

Section C-1-3 of the Lawton City Charter requires the preparation of a comprehensive land use plan every five years. Due to the significant turnover of employees and reformatting the Land Use Map in ArcView, the update of the Land Use Plan has taken longer than normal.

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

MOVED by Drewry, SECOND by Burk, to approve **Resolution 08-100** approving the 2030

Land Use Plan. AYE: Burk, Patton, Haywood, Warren, Shoemate, Hanna, Drewry. NAY:
None. MOTION CARRIED

22. Hold a public hearing and consider an ordinance allowing sanitary sewer mains to be located in the front of the lot and modifying the requirements for public utility easements and nonaccess easements and declaring an emergency. Exhibits: Ordinance No. 08-____
CPC Minutes.

Rogalski stated that recently there has been much discussion regarding the possibility of locating the sanitary sewer main and other private utilities in the front of the lots in subdivisions rather than in the rear yard. There is a lot of difficulty in getting back to those rear easements when it comes time to repair those lines. In November of 2007 a subcommittee was formed by the City Planning Commission to address this issue. The prospect of locating the sanitary sewer in the front was generally accepted as beneficial, but there was concern as to how it might work with the other private utilities moving to the front. Many of the private utility companies also wanted their facilities installed in the front of the lots, but the Public Works Director was concerned about the safety and liability issues that might be created, especially with regards to the water main. The idea of a joint trench system was discussed, but in the end, it was decided that the test projects (The Highlands and Oak Ridge Addition, Part 1) would need to get a little further along before final decisions could be made. In the Highlands, the sewer is located in the front with private utilities located in the rear yard. In Oak Ridge Addition, Part 1, all utilities are located in the front. The proposed ordinance would allow the sanitary sewer to be constructed in the front of the lot, but does not provide such an option for the private utilities.

There was much discussion and concern regarding maintenance responsibilities of the street and sewer service line when crossing below the street. The consensus of the subcommittee and City Planning Commission was that the property owner will be responsible for maintaining the sewer service line and the City will be responsible for any repairs to the street that would result from replacement/repair of the sewer service line.

To minimize the possibility of such street repairs, a cleanout would be provide on the opposite side of the street to aide in cleaning, and the service line would be sized up to 6-inches below the street such that future replacement with a 4 line would be possible without requiring excavation of the street.

The proposed ordinance includes the following amendments:

- Requires utility easements to be a minimum of 25 feet wide when a public water or sanitary sewer main is located in the easement and 15 feet wide when there is no public water or sanitary sewer in the easement.

- Allows minimum 10-foot easements for street lights.

- Requires nonaccess easements to be a minimum of one foot and a maximum of five feet.

- Allows nonaccess easements within a utility easement provided the width of the utility easement is increased by the width of the nonaccess easement.

- Allows sanitary sewer mains to be located at the front of lots in a minimum 15-foot wide public sewer easement on the opposite side of the street from the water main.

- Provides that sewer service lines will be privately owned and maintained from the connection at the main to the building.

- Provides that for residential record plats with sewer lines in the front of the lots approved after November 1, 2007, the City will repair/replace the paved roadways within the street right-of-way as required as a result of repairs to the private sewer service lines crossing under the street.

- Requires lots needing backflow prevention devices to be indicated on the construction plat.

- Revises Figure 8, Easement Allocation

- Adds Figure 19, Alternate Sanitary Sewer Location

Mayor Purcell questioned if this would require the easement to be split evenly when they develop lots.

Rogalski stated the code does require it to be centered on the lot line, all on one or all on the other.

In general, the code does require that it is split down the middle.

Mayor Purcell stated this is a problem we have right now.

Rogalski stated on page five of the ordinance, Section 1.b states that one half of the minimum

require width may be provided on the land being subdivided plus an easement equal to one half of the minimum required width on the land not yet subdivided. This easement must be obtained by the subdivider and presented for acceptance and dedication simultaneously with the presentation of the record plat. He said they do split the easement on both sides.

Vincent stated if the owner of the abutting property is not the developer, he is not required to sell the developer that easement.

Mayor Purcell stated that means if the person then develops behind it, they could have zero easement on that lot.

Burk questioned if this was going to be a cheaper alternative for the City of Lawton than putting these out front.

Rogalski stated that for the City of Lawton, this will be cheaper to maintain.

Jerry Ihler, Public Works Director, stated staff believes it will be more cost effective for the City to maintain the sewer lines if they are in front. There has been a lot of compromise through this process because originally they would have liked to have the main in the middle of the street so they would not have had to get into anybody's yard with regards to maintenance. The development community felt this was too expensive because of the backfill requirement of rock so the street does not settle. The compromise was to move it behind the curb. He stated they still believe having access to the manholes and maintaining those is going to be a lot cheaper. He stated they spent well over \$1 million replacing and removing fences in the Phase I of the sewer rehabilitation program.

Haywood questioned if there were two or three test cases.

Ihler stated there are currently two test sections, The Highlands and Oak Ridge. There have been some done in the front in the past. He stated Wyatt Acres has an addition that has sewer in the front. He stated in Oak Ridge all of the utilities will be in the front and in The Highlands, just the sewer is in the front with the water and the rest of the utilities in the back with that 15-foot easement.

Haywood stated he thinks this is cost effective and city crews will not have to go into backyards.

Ihler stated they will be able to flush lines without having to remove fences.

Mayor Purcell stated this will allow residents to use their entire backyard without worrying about building on the easement.

Patton stated he is worrying about sprinkler systems.

Mayor Purcell stated that residents will have to be conscious about placing them in the easement.

Ihler stated if they have to dig up the sewer line and replace a section then there will be damage to the sprinkler system, but most of the maintenance they do is with a hose or a flush truck and that equipment will go in the manhole.

Burk questioned if this will be a larger cost for the homeowner to have to replace their sewer line.

Ihler stated if the plumber has to slip line and run a four inch inside an existing pipe, there are no excavation costs other than the pit, and the homeowner is not responsible for the cost of the road repair. The plumber will have to bring it up to the grade, but the City is responsible for repairing the street if it has to be dug up in the future.

PUBLIC HEARING OPENED.

Tim Hushbeck, representing Public Service Company of Oklahoma, stated they feel this is the way to go. The majority of the subdivisions they are involved in across the state are front lot construction. He stated he is concerned that they will be excluded and required to locate in the back of the property. He suggested that every utility be given the opportunity to locate in the front as this process moves forward. They also have safety concerns.

PUBLIC HEARING CLOSED.

MOVED by Haywood, SECOND by Shoemate, to adopt **Ordinance 08-52** waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Patton, Haywood, Warren, Shoemate, Hanna, Drewry, Burk. NAY: None. MOTION CARRIED

(Title read by City Attorney)

Ordinance 08-52

An ordinance pertaining to subdivisions amending Sections 21-5-501, 21-5-503, 21-5-506, and 21-5-509, Article 21-5, and Sections 21-6-607 and 21-6-608, Article 6, Chapter 21, Lawton City Code, 2005, by allowing sanitary sewer mains to be located in the front of the lot and modifying the requirements for public utility easements and nonaccess easements, providing for severability, and declaring an emergency.

23. Discuss whether Council wishes to change the effective date for the new utility rates for FY 08-09 and, if changed, determine what adjustments would be made to utility customers accounts and the manner in which those adjustments would be made and take appropriate action as necessary. Exhibits: 1) Resolution 08-71 Amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 2005, As Amended, To Increase A Fee For Water, Sewer And Sanitation Utilities And Establishing An Effective Date, 2) Resolution 05-109 Amending Appendix A, Schedule of Fees And Charges, Lawton City Code, 1995, As Amended, Increasing the Rate For Water And Sewer Service And Establishing An Effective Date and 3) City of Lawton FY 08-09 Budget (Page 6) Summary of Revenues

For Enterprise Fund.

Rick Endicott, Finance Director, stated the City Council had requested that staff bring back this item to discuss when utility rates went into effect. Staff has spent a lot of time researching this issue. During the budget process each year they try to make the point that the City of Lawton works on a cash basis. All revenue received from July 1st through June 30th is a revenue that is then appropriated by Council for various activities. He has been here for eighteen years and, with the exception of one, all rate increases have gone into effect on July 1st. The revenue is coincided with the appropriation for expenses and that is how they estimate revenue. This year was no different than any other year except for the rate increase was significantly higher, which had a dramatic impact on citizens when they received their bill. There are twenty billing cycles and part of the issue is with the billing cycles. He stated it is next to impossible to go back and make whole anyone that received a bill after July 1st. If a person received a bill today, they will have part of the billing days in June. Do they credit them a full bill? He stated this is how the rates were established. We have a complicated system and it will not be easy to go back. How will they deal with those people who have moved out in the middle of the month and closed their account? There will be those who moved in the middle of the month. He understands both sides of the issue, but we operate on a cash basis.

He stated there are a couple of options. The first is the ability to go back and try to use the old rates for the month of August. There is absolutely no way they can adjust the July bills without a lot of programming man hours. If they were to use the back and go to the old rates in August, there will be a lot of issues they would need to think through. He distributed a bill from PSO, whose new rate went into effect on May 29th. The billing date was May 5th to June 3rd. The new rate went into effect on May 29th. The new rate was applied to the entire bill even though they only had about four days on the bill after the new rate. They would like to do whatever the Council directs, but they are in a situation where there are so many variables in dealing with the 30,000 plus accounts.

Haywood stated he understands where staff is coming from, but they told the people that the increase would go into effect July 1st, not June 30th. He has a real problem with this and he knows that we are going to lose money, but the people will be happy to go back to the old rate for a month.

Endicott stated he appreciates that, but he wants to make sure that the Council understands the effect and the impact this will make. Right now the budget is predicated on twelve months of revenue and our appropriation for expenses for every department is based on the twelve months of revenue that we have estimated. The adopted budget has an ending carry over of a bit more than \$400,000. If we go this route and adjust for one month, the Council will have to amend the budget and cut approximately \$500,000 worth of appropriations. This has to be done first because we legally would not have a balanced budget. There would have to be an amendment to the budget.

Mayor Purcell clarified that if they decide to reduce the bill in August, it will cost approximately \$500,000. They will have to have another meeting before that to reduce the expenditures in the current budget and do a supplemental budget and reduce our expenditures by \$500,000 and Council will have to figure out where that will come from. He stated we have been doing it this way for eighteen years with an effective date of July 1st. The bills that go out on July 1st have the new rates. It has never come up before because the dollars were fairly small. This year, because there was at least a \$10 increase, is why we are getting into this. He stated they need to remember next time when they increase the rates, that increase will only be valid for eleven months because the same thing is going to happen again.

Endicott stated that it is not as simple as just saying let s revert back to the old rates for one month. It is more complicated than that.

Haywood stated the flag went up when the water consumed in May was charged the new rate.

Hanna stated he was one of the ones who got hit with an extra \$25 on water he used in May and June. He questioned why the July billing cycle is for water in May and June. It does not make sense.

Endicott stated they have twenty working days in the month. The first cycle of every month is the first working day on that month. The way he believes the ordinance reads is that effective on July 1st, which is the first day of the billing cycle, so that bill that goes out on July 1st is the one that was read prior to that date.

Hanna stated they are asking people to pay for something they never received.

Drewry questioned if it was too complicated to allow people who are having a problem with this to just call in or come in and let staff adjust their bill. She stated this seems like the easiest and least costly to the city.

Endicott stated that is the second option. This would give people and opportunity to come in and get their bills adjusted. He stated there a lot of people that would not mess with it.

Burk stated he feels they made a mistake by billing those people for May and June at the new rate effective July 1st. They need to fix this problem because it is not right. Our budget starts July 1, not May or June. How can they expect people to come down here and ask for a refund when we can't even get out the dates for the clean ups. If they have to come up with \$500,000, then they need to do what they have to do.

Endicott stated that people have said that this was an error. He clarified that this was not a mistake and it is not something they tried to hide. This is a normal thing that they have done year after year.

Burk stated they have raised the rates a lot. As an owner of apartments, he was going to raise the rent in July or August, but now he is going to have to eat the \$900 extra dollars just like everyone else that has a business here. He knows this was not done on purpose, but they need to figure out a way to fix this.

Haywood stated he agreed with Council member Drewry regarding making the credit adjustments. Some people will just donate the money and not come in. People can just call in for the adjustment.

Endicott stated staff is prepared to do this, but Council will have to give him the authority. He questioned what adjustments they will be allowed to make with regards to the dates. He stated they cannot determine how much was used over a partial period of time and that is what they will get into. They cannot make those people 100% whole because someone may come in that has only two days in June. How do you determine how much to adjust?

Burk suggested they just divide that amount by the number of days.

Endicott stated they cannot do that, especially in the summer. They do not have the manpower to individually calculate that number.

Drewry stated this all goes back to those who were billed in May and June. If they used water in May or June and were billed with July rates, those are the ones who should be adjusted.

Hanna stated on the new water bills he understood there would be a box where people can donate for beautification.

Endicott stated there will not be one right now. He stated eventually there may be one, but they need to get those bills produced first.

Hanna questioned if there was going to be a yes box and a no box?

Endicott stated they have not gotten that far. This is something that has been requested and they recognize people want it, but they have to get the main bill done first.

Hanna stated he feels there should be a yes and no box.

Mayor Purcell stated there is no way they can do this manually with 30,000 plus accounts. He stated they should have made those rates effective June 1st even though the budget year starts July 1st because we don't collect the June 1st water usage until the beginning of the new fiscal year.

Drewry stated she thinks they need to give staff the authority to sit down with people that have a problem and work it out the best you can.

Endicott suggested they try to figure out water consumed in June or May and determine that person's bill. They would have to come in before a fixed date, like August 29th, to get an adjustment. They would have to sit down and look at those bills and determine if water was consumed in June or May and they could make an adjustment of some sort on their bill that would be equitable.

Warren stated some of those last days in June will be billed in August.

Endicott stated the billing date for water consumed from June 20 July 22 is August 1st. The billing date from June 30 July 30 is August 8th. That is the dilemma.

Drewry suggested they say that any water consumed in May up to June 30th.

Haywood stated those in May and June should be made whole. He thinks that it should be okay for those with water after June 23rd or 24th.

Endicott requested that Council determine a fixed date so that everyone is clear because there will be complaints.

Vincent suggested that if the bill has any July consumption on it then it would not be eligible for adjustment. It has to be pure June and May consumption. It would be impossible to calculate it if it has any July consumption on it.

Patton questioned what if someone had two days of consumption in July.

Haywood stated that people are not going to complain about that.

Mayor Purcell stated they need to give some kind of guidance.

Drewry suggested they adjust the bill for water consumed by June 30th.

Warren questioned the dollar amount.

Mitchell stated they are still looking at a month's revenue.

Drewry stated she does not believe that many people will come in.

Burk stated that once they give direction, staff is still going to have to come back to the Council with a number.

Mayor Purcell stated that they will not know that number until the end. They do know the maximum it could be is \$500,000. If it is voluntary it probably won't be that much. They have a little over \$400,000 in the carry over, and this could wipe that out. They would still be okay legally. He stated they still need to tell staff what to do so that everyone understands.

Drewry stated that the motion would be to adjust the bill for water used in May through June 30th with no consumption in July.

Endicott stated that would be the first six cycles in July. He stated that would be approximately 13,000 accounts. He stated this would give staff a cycle number. Residents would either call or come in and be eligible for a credit.

Mayor Purcell questioned the last day for reading of cycle number six.

Barbara Curren, Revenue Services Supervisor, stated this would be June 30th.

Drewry stated they need to make sure the newspaper has good information so people understand.

Haywood questioned if the cycle number was on the bill.

Endicott stated the first two numbers of your account number is your cycle number. He questioned if the Council wishes to include the water, sewer, trash and fuel surcharge.

Vincent stated the fuel surcharge went into effect with the July 1st billing so there would not be an adjustment.

Mayor Purcell suggested it should only count towards water and sewer.

Council agreed.

Mayor Purcell questioned the cut off date.

Endicott suggested August 29th.

Warren stated he received some calls where residents were under the impression that this was going to be an adjustment for every month and that the rate increase was wrong by a certain amount. He wanted to clarify that this was not the case and they are talking about a one time adjustment between \$10 and \$25.

Endicott stated the Council needs to know that when the resident gets an adjustment to their bill, there will not be a line that says Credit X, it will be adjusted in their next bill and may be hard to detect. Staff will keep forms and document the credit given.

Mayor Purcell stated that once staff determines the exact dollar amount after August 29th and if it is something less than \$400,000, then they will know that the carry over will be reduced by that amount which would mean they would not be in violation. Council will have to decide if they want to leave the carry over at that amount or do a supplemental budget and take some cuts somewhere else.

Warren suggested that at some point staff bring back a resolution to change the billing date of the increase so this

does not happen again.

Mayor Purcell stated if they made this effective on June 1st it would solve the problem.

Mitchell stated it is important to understand that it will be a credit on a future bill.

Drewry thanked staff for all of their hard work.

MOVED by Drewry, SECOND by Haywood that the first six cycles, which includes water consumed in the month of May through June 30, 2008, are eligible for an adjustment on water and sewer only with residents either coming in or calling in before August 29th. AYE: Patton, Haywood, Warren, Shoemate, Hanna, Drewry, Burk. NAY: None. MOTION CARRIED

24. Consider approving a proposal from HVS Global Hospitality Services, submitted to the Lawton Fort Sill Chamber of Commerce, to perform a Hotel and Convention/Civic Arena Feasibility Study funded through the Hotel/Motel Tax Fund and take action as deemed necessary. Exhibits: Proposal from HVS dated May 2, 2008 and proposal from C.H. Johnson Consulting, Inc. dated May 2, 2008

Dana Davis, Lawton-Fort Sill Chamber of Commerce, stated a year ago they talked about a feasibility study for a hotel and convention center downtown and the possibility of an arena. Over the last few months they did issue an RFP and received two responses. He stated they put together a task force to review the RFP s and interview both companies. The task force recommended that they proceed forward with HVS. He stated they are already in our market doing a study related to housing at Fort Sill so they have data on the community at the present time. The purpose of this study is to analyze existing convention, meeting, event and hotel space in Lawton as well as the market and industry trends that are on going in this area and determine whether a hotel/convention center and sports arena is feasible for our market. If it is determined to be feasible, they will also make recommendations as it relates to appropriate size and location of that facility. He stated with discussions with the task force and HVS, they believe it is more appropriate to analyze the hotel/convention center and the sports arena separately. He stated he is here to ask the Council to provide funding through hotel/motel funds. They originally thought this might cost \$50,000 based on the proposals, but he would like the Council to authorize an amount not to exceed \$70,000, for both the convention center and sports arena, plus reasonable expenses. This proposal does not include an economic and fiscal impact analysis which may be needed at a later date.

MOVED by Haywood, SECOND by Burk to approve a proposal from HVS Global Hospitality Services to perform a Hotel and Convention/Civic Arena Feasibility Study funded through the Hotel/Motel tax funds not to exceed \$70,000. AYE: Haywood, Warren, Shoemate, Drewry, Burk, Patton. NAY: None. ABSENT: Hanna. MOTION CARRIED

25. Consider an ordinance amending Section 19-6-606, Article 19-6, Chapter 19, Lawton City Code, 2005, by removing the requirement that golf carts operated around City lakes be equipped with seatbelts, providing for severability, and declaring an emergency. Exhibits: Proposed Ordinance.

Mayor Purcell stated that all they are doing is deleting item #3 in Section 1.C which requires the wearing of seat belts.

Shoemate questioned the purpose of eliminating the seat belts.

Chief Ronnie Smith, Lawton Police Department, stated he does not know how this got into the ordinance. He stated seal belts are not necessary in golf carts.

Mayor Purcell clarified that this is just out at the lake, not around town.

MOVED by Patton, SECOND by Burk, to adopt **Ordinance 08-53** waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Warren, Shoemate, Drewry, Burk, Patton, Haywood. NAY: None. ABSENT: Hanna. MOTION CARRIED

(Title read by City Attorney)

Ordinance 08-53

An ordinance pertaining to golf carts allowed in certain areas amending Section 19-6-606, Article 19-6, Chapter 19, Lawton City Code, 2005, by removing the requirement that golf carts operated around city lakes be equipped with seatbelts, providing for severability, and declaring an emergency.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

COL Bridgford stated COL Sonny Uberti was picked up for Brigadere General a few weeks ago and he has taken command of the installation management command region in Korea. He stated construction is moving strongly on Fort Sill and they are ahead of or on schedule. The 31st Air Defense Artillery Brigade will include 500 people moving

up here from Fort Bliss. There will be a ground breaking ceremony on the 26th for the brigade complex.

Shoemate stated there will be a family entertainment center opening up around the first of October east of the water park. He stated it will be open year round.

Drewry stated she is on the Fit Kids Coalition and the first farmers market was held on Saturday morning at the co-op. It opened at 8:00 a.m. She stated it will be open again on Saturday.

Hanna thanked the City Manager for his help with obtaining some city pins to be handed out at the world series baseball championship in Coweta. There were 46 teams from across the U.S.

Burk stated he has been going to bus driving school and there are some real issues with the railroad tracks. He stated you should be able to see 1,000 feet at the railroad tracks and there are some tracks here that you cannot even see 200 feet. He stated it is not just grass and weeds, it is also trees. Bus drivers have told him that there are trees hanging in the way of the railroad tracks all over town.

Mitchell stated they have a new contact with the railroad that staff has been working with in regards to neighborhood services issues. He would provide Councilmember Burk with that contact information.

Haywood stated he was told from Neighborhood Services staff they would have permission to cut the grass and weeds and send the railroad the bill.

Burk stated that school starts on August 15th and he would like to have those trees out of the way.

Haywood stated the Lawton Douglas School Reunion will be held from July 31st through August 3rd.

Mayor Purcell stated the Lawton Birthday celebration will be held on August 2nd at 7:00 p.m. in Elmer Thomas Park. He stated on August 19th at 1:00 p.m. the community covenant signing will be held at Cameron University.

Mitchell distributed a map showing the activity to date with regards to the downtown project and also a summary of closings and contracts signed. Currently there are 63 purchase agreements signed, so they are well over half way. By the end of the month they will have closed on 50 properties. He stated they have expended \$4.2 million on acquiring those properties in the phase one area. He stated he will be on vacation on Friday and will be back in the office on August 4th.

The Mayor and Council convened in executive session at 8:05 p.m. and reconvened in regular, open session at 9:26 p.m. Roll call reflected all members present except Haywood.

BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

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

Vincent read the title of item 26.

MOVED by Hanna, SECOND by Shoemate, to authorize the City Attorney to enter into negotiations and settlement for the Workers Compensation claim of Richard Pack. AYE: Drewry, Burk, Patton, Warren, Shoemate, Hanna. NAY: None. MOTION CARRIED.

27. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending lawsuit filed in the United States District Court, Western District of Oklahoma, Case No. CIV-2008-490 HE, and if necessary, take appropriate action in open session. Exhibits: None.

Vincent read the title of item 27.

MOVED by Burk, SECOND by Hanna, to retain the John Zelbst law firm to represent officers sued in their individual capacities in the case of Jamal Lipford vs. City of Lawton and authorize the Mayor and City Clerk to execute a retainer agreement at the rate of \$125 per hour. AYE: Burk, Patton, Warren, Shoemate, Hanna, Drewry. NAY: None. MOTION CARRIED.

28. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending lawsuit in the District Court of Comanche County, State of Oklahoma, Deta Turner v. City of Lawton, et al., Case No. CJ-2008-104, and if necessary, take appropriate action in open session. Exhibits: None.

Vincent read the title of item 28. No action required.

29. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss negotiations for a Collective Bargaining Agreement for FY 2008-2009 between the Fire Union IAFF, Local 1882, and the City of Lawton, and take appropriate action in open session. Exhibits: None.

Vincent read the title of item 29. No action required.

30. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss interest arbitration for a Collective Bargaining Agreement for FY 2008-2009 between the Police Union, IUPA, Local 24, and the City of Lawton, and take appropriate action in open session. Exhibits: None.

Vincent read the title of item 30. No action required.

31. Pursuant to Section 307C10, Title 25, Oklahoma Statutes, consider convening in executive session to discuss an economic development prospect to be located within the City of Lawton, and if necessary, take appropriate action in open session. Exhibits: None.

Vincent read the title of item 31.

MOVED by Patton, SECOND by Hanna, to authorize the City Attorney to advise the developer that the City will consider only offsite infrastructure in an amount not to exceed \$4.2 million. AYE: Patton, Warren, Shoemate, Hanna, Drewry, Burk. NAY: None. MOTION CARRIED.

There being no further business to consider, the meeting adjourned at 9:29 p.m. upon motion, second and roll call vote.

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

 /s/ Traci Hushbeck
TRACI HUSHBECK, CITY CLERK