

Meeting of 2008-7-8 Regular Meeting

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

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

Mayor Purcell called the meeting to order at 6:00 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Pastor Chuck Pettigrew, Liberty Heights Christian Church, followed by the Pledge of Allegiance.

ROLL CALL

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

ABSENT: None

RECOGNITION FROM MAYOR S COMMISSION ON THE STATUS OF WOMEN TO SHARON MEANS

Sandra Kunz, Chairman of the Mayor s Commission on that Status of Women, recognized Sharon Means who has been the Chairman for the past two years and will continue to serve on the commission.

Mayor Purcell thanked Ms. Means for all of her hard work on the commission and presented her with a Certificate of Appreciation.

PRESENTATION OF CITIZEN OF THE MONTH FOR JULY 2008 TO HAROLD DAVIS

Ms. Kunz announced that Harold Davis has been named Citizen of the Month for July.

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

AUDIENCE PARTICIPATION:

Dan Tucker, 6916 SW Beta, thanked the City Council members, City Manager and city staff for the intense study that went into this budget. He does not like rate increases, but he did appreciate the fact that city services were not cut.

Larry Forrester, 2313 NW 75th Street, stated he wanted to know why the water rate increase was made retroactive and put on the utility bills for May and June.

Mitchell stated that he is not aware that we have done anything retroactively.

Mr. Forrester stated he spoke with someone in the water department and was told the City Manager directed any bill processed and run on July 1st qualifies for the new rate increase. He stated he called the Governor s office this afternoon and let them know what was going on.

Rick Endicott, Finance Director, stated that all rates did go into effect July 1st. They were not retroactive. He stated

if water was consumed in June, this will effect your July 1st billing date. The new rate went into effect July 1st.

Mr. Forrester stated his bill runs from May 22nd to June 23rd. He questioned why the July 1st increase is on his bill.

Endicott stated there are twenty billing cycles. If the billing cycle is towards the end of the month, it will fall in that rate increase for water that was consumed during the month of June. He stated staff will look into Mr. Forrester s bill and make any adjustments necessary.

Haywood stated he has received some calls. He stated anything before July 1st should not be affected.

Endicott stated the new rates went into effect July 1st. If a bill was created on July 1st, it had the new rates.

Patton questioned when Mr. Forresters bill was printed.

Endicott stated the ending date was June 23rd.

Mr. Forrester stated that he was told by city staff that the bill was processed and printed on July 1st.

Haywood stated that the new rates should not have affected Mr. Forrester.

Endicott stated the new rates were effective when the bills went out on July 1st.

Burk stated they need to look at those bills from May and June and go back and correct that. That is water that was used in May and June and they should be billed at the lower rate.

Endicott questioned when the new rates should go into effect.

Burk stated he feels that the rates should affect anything read after July 1st.

Shanklin stated the consumption was not in the new fiscal year.

Mayor Purcell stated the Council needs to come up with some guidance for staff.

Burk suggested that only those bills that are read in the month of July should be affected.

Endicott stated they would really have to wait until August.

Shanklin suggested they agenda and item at the next council meeting.

Mitchell questioned when is the last billing cycle of the month.

Endicott stated for June, the last working day of June would have been the last billing cycle. The first working day of July would be the first cycle for the month of July.

Mitchell stated if they established August 1st for the new billing, then they would catch most of these.

Endicott stated it took about a month to change these rates. He does not disagree with these thoughts, but that is the way they have historically done it the last eighteen years. He questioned if the directive from Council is that staff credit those bills they can. He stated they are talking about some major issues.

Mayor Purcell stated they will bring an item back at the next council meeting, but meanwhile everyone needs to pay their bill and staff can work on the rebates.

Shanklin stated that the City Council directed staff to start the new rates on July 1st and that bill was issued on July 1st.

Endicott stated staff will bring back an agenda item.

Michael Tennis, 1710 NW Cherry, stated they have the new trash carts and the new truck. Last week as the truck picked up the cart, trash was blowing everywhere. He called solid waste and was told that everything in the cart had to be in a plastic bag. He stated this misinformation has to be corrected and the truck driver needs to slow down and not leave trash on the street.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF JUNE 24, 2008.

MOVED by Hanna, SECOND by Drewry, to approve the minutes of the Lawton City Council regular meeting of June 24, 2008. AYE: Hanna, Drewry, Burk, Shanklin, Patton, Haywood, Warren, Shoemate. NAY: None. MOTION CARRIED.

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.

Mayor Purcell stated item #2 needs to be considered separately. Patton requested item #14 be considered separately.

MOVED by Warren, SECOND by Hanna, to approve the Consent Agenda with the exception of items #2 and #14. AYE: Drewry, Burk, Shanklin, Patton, Haywood, Warren, Shoemate, Hanna. 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: J.P. and Jean Richard in the amount of \$521.54 (**Res. 08-90**), David and Lynda Aguon in the amount of \$442.24 (**Res. 08-91**). Exhibits: Legal Opinions/Recommendations and Resolution No. ___, Resolution No. ___.

2. Consider the following damage claims recommended for denial: Stephen and Deana Carroll in the amount of \$3,588.86, Bill and Janet Nasse in the amount of \$1,600.00. Exhibits: Legal Opinions/Recommendations.

Frank Jensen, Deputy City Attorney, stated the Carroll claim is regarding a leak in a gas line. He stated the gas company employee noted the riser to the gas meter has a nick that caused a leak in the riser a couple of inches off the ground. The gas meter is against a fence that was not touched by the sewer rehab crew when they replaced the sewer main in the easement. The plumber noted in his bill that the riser to the gas meter was rusted out and needed to be replaced. Because of this information, staff has recommended denial of the claim.

Mayor Purcell questioned if all of the work was done on the outside of the fence.

Jensen stated crews had to go inside the back yard area. He stated the public works department had permission to go around the gazebo and go through the yard. He stated he was glad that the crew exercised good judgment and did not take the gazebo down even though it was in the right of way. This was no where near where the riser had the leak in the line.

Shanklin questioned if the riser was rusted out.

Jensen stated the plumbers bill stated the riser was rusted out and needed to be replaced.

Vincent stated it is important to note that the plumber replaced the riser, pressure tested the line and the gas line failed.

Steve Carroll, 5108 NW Ash Avenue, stated there is a lot of information in the memo from the City Attorney that is incorrect. He stated he and his wife left town the week prior in question. When they returned the City of Lawton workers were in the backyard and the gas had been disconnected. He called Pippin Brothers, who came out and replaced the line.

Haywood questioned the age of his home.

Mr. Carroll stated mid 1960 s.

Haywood questioned the depth of the gas line.

Mr. Carroll stated he was not sure.

Mayor Purcell questioned if Mr. Carroll claimed the city damaged the whole line since the line was replaced.

Mr. Carroll stated his plumber just did what they had to do to get his gas working again.

Burk stated by reading the Pippin Brothers statement, the line rusted out and the line needed to be replaced at the riser. The problem he has is that once they replaced the riser, they pressure tested it again and the gas line failed. If we hit the riser, it probably wouldn't cause the gas line to leak. That is pretty uncommon. If we did nick the riser, that is probably something we should take care of. He does not agree with us replacing the rest of the line.

Mr. Carroll stated he believes the City damaged his line by running equipment over his back yard.

Shanklin questioned if Mr. Carroll s fence was in the right of way.

Vincent stated the fence is across the easement where the utilities are as well as the gazebo being placed on the easement. He stated we tried to work around the gazebo.

Mr. Carroll stated the memo said that they were contacted by city staff. He stated they never talked with city staff and he never saw the notice left on the door. He wonders if he is getting the truth. He does not feel he should be liable for something done by this municipality.

Shanklin suggested they postpone this item until someone goes out and looks at this again.

Mr. Carroll stated the City was at least 25 feet deep into his property.

Jensen stated the gazebo was in the right of way. There are no improprieties. They could not get a hold of the home owners regarding the gazebo, but the crews used good sense and did not take the gazebo down, even though they had a right to. Because they did not touch the gazebo they had to work around it and go further in the yard. This has nothing to do with gas leak and the riser next to the fence. There was no work going on in that area.

Shanklin stated when Mr. Carroll left town he was whole. When he came back, his gas was shut off.

Jensen stated there was a recognized leak in the riser that was reported by the gas company. The information came from the employee at the gas company. The riser was rusted out and that is where they found the leak. That is the basis for the staff recommendation.

Mr. Carroll stated the riser was nicked, not rusted out.

Warren stated if we owe anything, it would just be for the riser.

MOVED by Burk, SECOND by Warren, to approve the damage claim of Stephen and Deana Carroll in the amount of \$350 for the cost of the riser. AYE: Burk, Shanklin, Patton, Haywood, Warren, Shoemate, Hanna, Drewry. NAY: None. MOTION CARRIED.

Jensen stated the next claim involves a structure in the right of way. There was a sewer main that had to be replaced. This home has a yard that sloped down from the easement to the back of the home. There were retaining walls in the right of way that had to be removed to replace the main. Our obligation was to backfill and level and we do not take responsibility to replace the retaining wall or any other kind of landscaping. He stated in April during a heavy rain some mud came through the retaining wall that had been replaced by the home owner.

Shanklin stated city crews did not put the retaining wall back.

Jensen stated there is a council policy that stated we do not put them back.

Bill Nasse, 815 NW 49th Street, distributed photos of his property. He stated sewer rehab did not start on his property until the middle of January and they did not get done until the end of March or first of April. He is not concerned about his retaining wall. He removed everything he was told to remove. He stated his shed and fence was damaged which he took care of. In April it rained and everything collapsed because the city crews did not pack the dirt. Water came down his alley and into his home. He has french drains under his porch, in front of his porch and to the east. There was no way those french drains could accommodate all that dirt, so the dirt came into his home. He has replaced his furniture and walls. The reason he has filed the claim is to replace his flooring. He stated the city crews admitted they did not do this right and they placed sandbags across the back to prevent the rain from coming in. He stated city crews came out twice and finally they packed the dirt.

Jensen stated the information they received regarding this claim came from Buddy Bridges, Sewer Rehab Division.

Buddy Bridges, Assistant Director of Sewer Rehab, stated crews did go back several times and refill around the manhole and they did place sandbags in the yard. He stated all of the water from the easement has always gone into that yard, whether they did the manhole work or not. He stated the water was not in the house, but was in a patio that has been closed in as a den which was several inches below the house. He is not sure how they keep water out of that room because of the way the yard is grated. He stated it is not unusual for them to have to go back and recompact around the manholes and add topsoil after a heavy rain.

Mr. Nasse stated this was an addition to the house, not an outside patio.

Mr. Bridges stated the slab was six inches below the rest of the house.

Shoemate stated he went out to the house and questioned if there was an abundance of run off around the manhole

covers when they sink.

Mr. Bridges stated the water that was coming in was going to come in whether the manhole was modified or not.

Mr. Nasse stated he bought this home in 2000 and he has never had a problem with water.

Shoemate stated he did see small drains and he suggested Mr. Nasse make the drains a little bigger.

Mr. Nasse stated that the mud had covered his drains.

MOVED by Burk, SECOND by Shanklin, to adopt **Res. 08-92** approving the damage claim of Bill and Janet Nasse in the amount of \$1,600.00. AYE: Shanklin, Patton, Haywood, Warren, Shoemate, Hanna, Drewry, Burk. NAY: None. MOTION CARRIED.

3. Consider approving an Outside Water Sales Contract with OK Scrap Metal, LLC, 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 an Outside Water Sales Contract with Keith and Jayna Mannen, and authorize the Mayor and City Clerk to execute the Contract. Exhibits: Location Map.

Contract is on file in the City Clerk s Office.

5. Consider approval of the Retainer Agreement for Legal Services between the City of Lawton and Clay Hillis 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.

6. Approval for Arts & Humanities Division to accept the Local Government Challenge Grant from the Oklahoma Arts Council for the FY 2008-09. Exhibits: None.

7. Consider approving contracts for the Co-Sponsorship Grant Program. Exhibits: Contracts on file in City Clerk s office.

8. Consider accepting a grant of \$8,500 from the Oklahoma Humanities Council to support the 2008 Oklahoma Chautauqua program. Exhibits: The Oklahoma Humanities Council grant agreement is on file in the City Clerk s Office.

9. Consider accepting a grant of \$2,000 from the Oklahoma State Regents for Higher Education to participate in their Plan4College initiative. Exhibits: The Plan4College agreement is on file in the City Clerk s Office.

10. Consider approving an agreement with the City of Lawton and Lawton Evening Optimist Soccer Association related to the operation of the Big Green Soccer Complex. Exhibits: Cooperative Agreement is on file in the City Clerk s office.

11. Consider granting a revocable permit to use the alley adjacent to Lots 4 8, Block 5, McClung Addition, also known as 914 SW Lee Boulevard, for maneuvering of vehicles. Exhibits: Site Plan and Application. Revocable Permit on file in City Clerk s Office.

12. Consider acknowledging receipt of a permit for the construction of a waterline and appurtenances from the Oklahoma Department of Environmental Quality to serve the NW 67th Street (Cache Road to Rogers Lane) Waterline Relocation Project #2008-7, City of Lawton, Comanche County, Oklahoma. Exhibits: Permit to Construct dated March 4, 2008.

13. Consider accepting FEMA reimbursement checks for the total amount of fifty thousand, three hundred twenty five dollars and forty one cents (\$50,325.41) and authorize the Finance Department to deposit these funds into the General Fund, FEMA Fund 35, Sewer Rehab Fund and the 2005 CIP to reimburse the accounts from which the funds were expended during the 2007 summer floods. Exhibits: Summary of FEMA checks received to date and Summary of the eligible project costs.

14. Consider adopting a Resolution authorizing the installation of traffic control measures at the following intersections: SW 14th and SW Monroe Ave.; W Gore Blvd at main entrance to Comanche County Memorial Hospital/Cameron University; NW 23rd St. and NW Cheyenne Ave.; W Gore Blvd between University Dr and SW 27th St (alley); Rogers Lane at NW 38th St.; SW 63rd St. & SW Oakcliff Dr; NW Quanah Parker Trailway at north and south entrances to Crosby Park Estates; SW 14th Pl at SW Georgia Ave; Landfill Tinney Rd and SW 11th. Exhibits: Traffic Commission Minutes, Traffic Issue Requests, and Resolution No. 08-_____.

Patton stated he had a question about the status of the traffic light at 82nd and Lee.

Jerry Ihler, Public Works Director, stated the work order has been issued and they have ordered the equipment. Those poles take about four to six months for delivery.

MOVED by Patton, SECOND by Haywood, to approve **Res. 08-93** authorizing the installation of traffic control measures. AYE: Patton, Haywood, Warren, Shoemate, Hanna, Drewry, Burk, Shanklin. NAY: None. MOTION CARRIED.

15. Consider denying the request to adjust the signal timing at the intersection of NW 52nd St. and NW Rogers Lane. Exhibits: Traffic Commission Minutes and Traffic Issue Request.

16. Consider approving a Memorandum of Agreement between the Oklahoma State Department of Health and the City of Lawton for food handler training and inspection services of food service establishments and authorize the Mayor and City Clerk to execute the document. Exhibits: Memorandum of Agreement.

17. Consider awarding (CL08-067) Manhole Rings & Covers to Water Products of Oklahoma of Owasso, OK. Exhibits: Department recommendation, abstract of bids.

18. Consider awarding (CL08-068) Manhole Lining Materials to The Strong Company of Pine Bluff, AR. Exhibits: Department recommendation, abstract of bids.

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

20. Consider approval of payroll for the period of June 16-29, 2008.

BUSINESS ITEMS:

21. Hold a public hearing and consider a resolution amending the 2025 Land Use Plan from Residential/Low Density to Commercial and an ordinance changing the zoning from R-1 (Single-Family Dwelling District) to C-1 (Local Commercial District) zoning classification located at 4206 4224 SE Lee Boulevard. Exhibits: Resolution No. 08-___, Ordinance No. 08-___, Location Map, Applications and CPC Minutes.

Richard Rogalski, Planning Director, stated this request is for Lots 5 9, Block 1, Sullivan s TV Acres Addition, which measure 522 feet by 302.5 feet. The applicants are the property owners of these lots: Betty Patterson, Robert Heaton, James Chandler, Emma Macias, and Jason Baird. There was no proposed commercial use for these lots included in the application.

The zoning of the surrounding area is R-1 to the north and west, A-1 (General Agricultural District) and C-4 (Tourist Commercial District) to the south, and C-4 to the east. The land use of the surrounding area is single-family residential to the north and west; agricultural and commercial (beauty shop and dog groomer) to the south; and vacant and Stripes convenience store to the east. The lots currently are used for single-family residential; however, the property owners want to rezone the lots as commercial for potential future development. C-1 is the most restrictive commercial zoning. He stated there has been a lot of discussion regarding lots fronting major roadways and what zoning those should be. The draft 2030 Land Use Plan proposes changing the designation of the lots fronting State Highway 7 from Residential/Low Density to Commercial.

On June 12, 2008, the City Planning Commission held a public hearing on this request. At the public hearing 5 persons spoke against the request, and two persons spoke in favor of the request. The CPC, by a vote of 2 to 7, failed to recommend approval of the request.

Notice of public hearing was mailed on June 17, 2008 to 44 property owners within 300 feet of the requested area, and proper notice was published in *The Lawton Constitution* on June 22, 2008. He stated a petition was received against this request. The petition was signed by 38 people. The code states that if the owners of 50% of the property within the 300 foot area oppose the petition, then a majority is required. He stated the petition only adds up to 28.3%, so a majority would not be required. The recommendation for the City Planning Commission is to deny.

Warren questioned if this would be a good place for transitional zoning since it backs up to residential.

Rogalski stated this would be a good place for transition district, however, a month ago the City Council did pass the site plan ordinance which almost precludes the transition zone. This application came in before that code change was passed, so the site plan requirement does not apply here. This is what you would call speculative rezoning. The applicant does not have a site plan to put on this property, so that is why TR zoning will not work. If this application had come in after the code change, a site plan would have been required because it is adjacent to residential.

Patton questioned the history of the parcel to the east.

Rogalski stated he believes it is owned by Braum s. They purchased the property and went as far as to get it rezoned, but he believes there was an access issue.

PUBLIC HEARING OPENED.

Jeannie Patterson, 4212 SE Lee Boulevard, stated she is the applicant for this rezoning. She stated that area is very congested and she feels it is her best interest for the property to be zoned commercial. She has abided by all of the rules and guidelines that have been set forth. She stated at the CPC meeting several property owners were concerned with what would be going on that property. The way she looks at it, this will only better the community. This portion of land could be a benefit to the east side and she does not see that it will harm the surrounding property owners. She stated that this will eventually go commercial whether it happens tonight or in two years. All of the property owners have spoken to Insight Properties and agreed to sell this parcel of land as one.

Melvin Smith, 4207 SE Bedford Drive, stated there are other senior citizens that live on his street and there is peace and tranquility to those who are homeowners in his area. If a commercial business comes in, it will escalate the noise. This will bring about more traffic in the area and he is concerned that this will take away the peacefulness of the neighborhood.

Anthony Wright, 4030 SE Lee, stated he is against this rezoning. He has lived at this property for 25 years. He stated he would like to keep the area residential. He does not understand why anyone would want to rezone the area.

Linda Poe, Insight Properties, stated they plan to work with the residents to offer some unity and cohesion to the changes that are coming about. What the applicants are trying to do is control their destiny and have options so they can consider anything that may be put on the table before them for the future. They will help them act as one single unit in the best interest of the surrounding area.

PUBLIC HEARING CLOSED.

Warren stated there is not a doubt in his mind that this will be commercial someday, but the council is just trying to exercise a little bit of control and that is where the transition district and binding site plans are coming from. He realized that the binding site plan was not required at the time the application was made, but there are all kinds of things you need to think about when you are going to encroach on other properties. He does not think he will be able to support this request.

Burk stated he also feels that the time will come when this will become a commercial area but he does not think it has to happen now.

MOVED by Burk, SECOND by Drewry, to deny the amendment to the 2025 Land Use Plan and deny the rezoning request. AYE: Haywood, Warren, Shoemate, Hanna, Drewry, Burk, Shanklin, Patton. NAY: None. MOTION CARRIED.

Warren exited the room.

22. Consider approving plans and specifications for the 2nd Street Pedestrian Improvement and Pedestrian Enhancement Project #2005-12 subject to approval by the Oklahoma Department of Transportation and authorizing staff to advertise for bids. Exhibits: Note B-06-MC-40-0001. Project sketch will be distributed at the Council meeting.

Mitchell distributed a schematic handout that gives a profile of the streetscape and detail of the street enhancement program. Three years ago the Lawton Urban Renewal Authority (LURA) submitted an ODOT Enhancement Grant application and followed up with a second enhancement grant and the council agreed to submit an application for a Section 108 loan for street improvements. Overall the city has secured \$3 million to improve 2nd Street. He stated tonight the City Council will be approving the bid specs for the project and authorize staff to proceed with bidding the project once ODOT approval has been obtained.

Rogalski stated this is really a beautification and pedestrian enhancement project, not a roadway project. They are putting ten foot walkways with a treescape. There will be a 13 foot travel lane,

a 12 foot left turn lane, just as it is now. What they did was take the five lanes that are there and squeezed them down a little bit. The overall project is conceived from C Avenue to Ferris. This particular set of plans actually starts just south of Gore Boulevard and extends just north of Columbia for the first phase with an alternate phase going just past Dearborn.

Shoemate questioned what type of trees they will be using and how close together they will be planted.

Rogalski stated the tree planting areas are thirty feet apart. Trees being planted are Chinese Pistache, Cedar Elm, Lacebark Elm and a maple.

Haywood questioned if the concrete will go around the trees.

Rogalski stated it will be concrete and brick pavers.

Patton questioned the time frame.

Rogalski stated this will be a three month project. Staff is waiting for ODOT to approve the plants then they can go to bid with a ninety day bidding process.

Patton questioned how the businesses will be impacted.

Rogalski stated LURA is obtaining properties along the east side of 2nd Street, so many will be owned by LURA. They will have to work around the properties on the west side.

Shoemate questioned the type of lighting.

Rogalski stated they will be decorative fixtures that will be about 30 feet tall. It is more pedestrian level lighting about 30 feet apart.

Shoemate stated he would like to see the older buildings in this area preserved.

Rogalski stated this project really progressed on its own and this will be a benefit to the area and actually draw in people. This was conceived as the first step to the redevelopment process.

Shanklin questioned where in Oklahoma has this.

Rogalski stated there are at least two or three in Oklahoma City which includes Western Avenue, Meridian, NW 23rd, NW36th Street.

Shanklin stated he does not see how you can take the traffic and choke it down.

Rogalski stated the lanes that are there now are very wide and traffic moves faster on an ample lane. Twelve foot lanes are standard and there are much smaller lanes on 11th Street. They are not lowering the capacity of the road, but they are borrowing the unused asphalt and providing some amenities in a streetscape.

Shanklin stated he has a problem doing this when you look at all of the other things needed to be done in Lawton.

Mitchell stated that LURA paid for all of the engineering for this project. They spent nearly \$400,000 for the engineering for this road. He stated 98% of the money for this street is state and federal grant money that could not be spent anywhere else in the community and it was a special application that had to go through both the department of transportation and housing and urban development.

Shanklin stated he is not worried about spending it anyplace else, but why don t we work as hard to get some money to spend in other places.

Haywood stated he would like to see some low income people from this area on those jobs.

Mayor Purcell noted that Councilmember Warren did not take part in this conversation and was not in the room.

MOVED by Drewry, SECOND by Shoemate, to approve plans and specifications for the 2nd Street Pedestrian Improvement and Pedestrian Enhancement Project #2005-12 subject to approval by the Oklahoma Department of Transportation and authorizing staff to advertise for bids. AYE: Shoemate, Hanna, Drewry, Burk, Shanklin, Patton, Haywood. NAY: None. ABSENT: Warren. MOTION CARRIED.

Warren returned to council chambers.

23. Discuss special trash collection services currently provided by the City of Lawton as provided by Section 22-4-1-410 Special Pickup Service, Lawton City Code, and consider refunding \$110.00 (One Hundred Ten Dollars) to Mr. Richard Warren, 2418 NW 80th Street, Lawton, Oklahoma for removal of a bulk item, and take action as deemed necessary. Exhibits: Copy of Section 22-4-1-410 Special pickup service, Lawton City Code 2005, Photo from the City of Lawton Solid Waste Collection Division 5-30-2008, Photo from Richard Warren after violation notice posted on 5-30-2008 and Memorandum from Goodwill Industries, Francy Ford, 6-26-2008.

Patton stated he placed this item on the agenda but he had some erroneous information. He stated that the

Salvation Army was contacted to pick up the couch, not Goodwill. He stated he is not against the special pickup and charge, it is something that is necessary. But this is a situation where Mr. Warren did not want to see the couch thrown away because it did have some value. He offered it for free, but no one chose to pick it up. At that point he contacted Salvation Army who made arrangements to pick it up.

MOVED by Patton, SECOND by Haywood, to refund \$110.00 to Mr. Richard Warren. AYE: Hanna, Drewry, Shanklin, Patton, Haywood. NAY: Shoemate, Burk, Warren. MOTION CARRIED.

Richard Warren, 2418 NW 80th Street, stated since they were giving this couch to the Salvation Army he will pass the money along to them.

24. Consider an ordinance amending Section 15-5-503, Article 15-5, Chapter 15, Lawton City Code, 2005 by changing the axle limit for commercial vehicles from three (3) axles to two (2) axles to be able to park in any residential area within the City limits and by prohibiting trailers to be parked on any residential streets between sunset and dawn, providing for severability, and declaring an emergency. Exhibits: Ordinance 2008-_____.

Drewry stated this is going on in her ward along with other wards and now is getting out of hand. People are parking big commercial vehicles in the residential neighborhoods and in some cases, it is causing problems with traffic. She stated if you live in a residential neighborhood and are taking care of your yard, you do not want these big commercial vehicles parked next door to you. She stated since this issue came out in the paper, she has had calls regarding the big RV s and fifth wheels parked in residential neighborhoods. She stated there was a situation where these commercial vehicles, who worked for a company that was not even in the Lawton community or even in Comanche County, were parking in a driveway and doing business in the driveway of this vacant home. It was causing a lot of problems in the neighborhood.

Hanna questioned what would happen to these truckers who drop their trailers off and drive their cabs home. How would they get back and forth?

Vincent stated in other towns they park the tractor with the trailer and someone comes and picks them up and takes them home. He stated right now code allows anything with three axles or less to be parked in a driveway in a residential area.

Hanna questioned what is going to happen to the RV s or fifth wheels.

Vincent stated this is not saying you cannot have a trailer in your driveway at night. This says you can t park the trailer in the street at night.

Hanna stated if it is tagged and licensed why not?

Mayor Purcell stated he had them in his neighborhood and cars could not get by. They need to get out of the street.

Vincent stated at this time this ordinance does not include RV s. This is only talking about commercial vehicles as defined by state statute and city code.

Shoemate stated his neighborhood bylaws prohibit it anyway. He questioned if they could do this by neighborhood.

Vincent stated they can establish covenants at the time they do the development, but once the development is done you can t go back and make those retroactive.

Warren stated that the Lawton Police Department does not enforce covenants.

Drewry questioned if she could amend this ordinance to include RV s and fifth wheels.

Vincent stated they would need to amend Section 6.

Burk questioned what would be included as far as the definition of recreational vehicles.

Vincent stated that recreational vehicles are defined by state statute. He would have to look it up.

Shoemate suggested they bring this item back after they put some teeth into it and find out exactly what it entails. He would like to spell out what vehicles they are talking about.

Warren suggested they pass it as it is written and that will take care of the truck issue and then they can bring something back to take care of the RV issue.

Vincent stated he can bring back a definition of a recreation vehicle.

Tom Hutchins, 4102 Meadowbrook, stated this is the property that Councilmember Drewry is referring to as far as a tree service sitting in the driveway. He stated the owner of the business asked him if he could stay there after he paid him for some service and he was allowing him to load some things in his truck as he was cleaning up the yard. He was not doing business out of this home. He apologized if this was a problem. He is in agreement in not allowing trucks to park in the neighborhood on the street.

MOVED by Drewry, SECOND by Warren, to adopt **Ordinance 08-50**, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Hanna, Drewry, Burk, Shanklin, Patton, Haywood, Warren, Shoemate. NAY: None. MOTION CARRIED

(Title read by City Attorney) Ordinance 08-50

An ordinance pertaining to storage or parking of motor vehicles prohibited-exceptions, amending Section 15-5-503, Article 15-5, Chapter 15, Lawton City Code, 2005, by changing the commercial vehicle parking in residential areas from vehicles of three axles to two axles and by adding language which prohibits trailers to be parked on a residential street, providing for severability, and declaring an emergency.

Drewry stated that while investigating this issue she also found out that cars parked in driveways are suppose to be twelve feet from the street, so those that have four and six cars parked in driveways are breaking the law.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Shoemate stated sometime in November Lawton will have a family entertainment business open up east of the waterpark. This will be similar to Incredible Pizza in Oklahoma City.

Drewry congratulated everyone for the success of the July 4th celebration.

Burk requested that staff look into the number of city vehicles that are driven home and the distances that they are driven. He stated with the gas situation he felt this is something they needed to discuss. He stated there are trees and grass up and down E. Gore Boulevard that need to be cleaned up and it seems to be taking forever. He stated Flower Mound Road also needs some attention with the grass.

Shoemate questioned if anyone has contacted the railroad lately regarding the high grass.

Mitchell stated that staff has recently contacted the railroad.

Shoemate questioned if city crews could cut it and sent them the bill.

Mitchell stated that is actually what we are trying to do.

Shanklin stated that prairie dogs are eating us up on Ferris Avenue. He stated there are also a lot of hanging trees on Ferris. He questioned if he had the right to prune those that are in his view of the park. He stated there was a big mess left at the lake after July 4th. He questioned if all trash has to be in a bag.

Mitchell stated no.

Hanna questioned who would be responsible for picking up that trash that falls out of the container as the truck dumps it. Is it the driver or the homeowner?

Ihler stated staff would like to have an ordinance where trash has to be in a bag because that would solve the problem. On a windy day, that is going to happen. With automated trucking there will just be the driver and the truck.

Patton stated that everyone should pick up their own yard. That is a better solution than making everyone put their trash in a bag.

Burk stated a lot of people won t pick it up and there lies the problem. How do we keep the city clean?

Vincent stated he usually does not make personal comments, but he received one of the first 95 gallon containers that were issued and when he dumps his yard waste in the container without the bag, he can get it all in that one container. Basically you reduce the capacity of the container if you use a bag.

Patton stated it is also better for the grass to be loose at the landfill than in a bag.

Dale Namora, 10 NW Heatherstone, stated she believes it should be the decision of the homeowner to use a bag or not and they should pick up whatever falls on your property.

Haywood stated they do need to contact those involved with cleaning up the railroad areas. He stated it is hard for the police department to keep up with the kids that are shooting fireworks in town, but if you sell fireworks in town, they are going to fire them in town. He hopes that local people are hired for those jobs in the redevelopment of 2nd Street.

Mitchell stated they hope to have a local contractor on that project.

Warren stated with all of the fireworks events the past weekend, he estimated that Lawton hosted around 50,000 people. He does think that they need to revisit the fireworks issue. When this town puts on at least two programs, there are places where people can go to enjoy fireworks. He stated they either need to stop selling them or stop worrying about it and let people do what they want.

Patton stated he believes that even if they stop selling in the city limits, they will see no difference and we will lose that small amount of sales tax revenue.

Mayor Purcell stated they need to get a handle on this problem. One of these days they will have a house burn down because of fireworks and the Council will be forced to do something.

Vincent stated he has been asked by Oklahoma Municipal League to participate in meetings sponsored by the Oklahoma Municipal Utility Providers regarding water policies. He will be representing Lawton and southwest Oklahoma.

The Mayor and Council convened in executive session at 8:26 p.m. and reconvened in regular, open session at 9:50 p.m. Roll call reflected all members present.

BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

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

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

MOVED by Hanna, SECOND by Warren, to authorize the City Attorney to negotiate a settlement of the workers compensation claim of Ronnie Smith, Jr. and return to Council for further consideration. AYE: Shanklin, Patton, Haywood, Warren, Shoemate, Hanna, Drewry, Burk. NAY: None. MOTION CARRIED

26. 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 #26. No action is required.

27. 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 #27. No action is required.

28. 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 #28.

MOVED by Burk, SECOND by Hanna, to authorize city staff to establish development requirements and negotiate with a potential developer for the development of the site complying with all requirements of federal and state law and city code. AYE: Patton, Haywood, Warren, Shoemate, Hanna, Drewry, Burk, Shanklin. NAY: None. MOTION CARRIED

There being no further business to consider, the meeting adjourned at 9:53 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