

Meeting of 2010-11-23 Regular Meeting

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
NOVEMBER 23, 2010 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor Fred L. Fitch Also Present:
Presiding Bryan Long, Acting City Manager
 Frank V. Jensen, City Attorney
 Traci Hushbeck, City Clerk
COL Ray Lacey, Fort Sill Liaison

Mayor Fitch 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 Ron Dupont, Faith Family Fellowship, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT: Michael Tennis, Ward Two
Janice Drewry, Ward Three
Jay Burk, Ward Four
Richard Zarle, Ward Six
Stanley Haywood, Ward Seven
 Doug Wells, Ward Eight

ABSENT: Bill Shoemate, Ward One
Robert Shanklin, Ward Five

PROCLAMATION FOR NATIONAL AMERICAN INDIAN HERITAGE MONTH

Mayor Fitch proclaimed November 2010 as National American Indian Heritage Month.

PRESENTATION OF THE JAMES FARRELL ASA NATIONAL AWARD OF EXCELLENCE

Kim Shahan, Parks and Recreation Director, stated the James Farrell ASA National Award of Excellence was presented to the City of Lawton for conducting one of the highest rated ASA national championships in the year of 2010. He presented the award to Mayor Fitch and the City Council. He acknowledged the parks and recreation staff and the Lawton Fort Sill Chamber of Commerce for all of their hard work.

AUDIENCE PARTICIPATION:

Chuck Miller, stated he represents a citizen of Lawton named Clifford Attaway who has been in the Comanche County Memorial Hospital since September 27th. He stated Mr. Attaway's ex wife and children got a hold of his ATM card and went through a lot of money. Mr. Attaway is his step son and he has a power of attorney but the Lawton Police Department told him that it means nothing. Mr. Attaway's son is living in his home at 305 SW 19th Street and it is a drug house with gang activity. His power of attorney allowed him to put locks on the doors but his son broke in and stole personal equipment from his father. The police department told him they didn't care about the power of attorney. He wants to know why his son's rights were violated and he still has not received a report for the theft or vandalism.

Mayor Fitch stated staff will address this issue and see what is involved.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF NOVEMBER 9, 2010.

MOVED by Tennis, SECOND by Drewry, to approve the minutes of the Lawton City Council regular meeting of November 9, 2010. AYE: Tennis, Drewry, Burk, Zarle, Haywood, Wells. 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 Fitch stated item #4 needs be considered separately.

MOVED by Drewry, SECOND by Haywood, to approve the consent agenda with the exception of item #4. AYE: Drewry, Burk, Zarle, Haywood, Wells, Tennis. NAY: None. MOTION CARRIED.

1. Consider authorizing a contract with Skulls Unlimited for the purchase and removal of all euthanized animal carcasses from the City of Lawton Animal Welfare Division; authorize the Mayor and City Clerk to execute the contract and authorize the revenues from the contract to be placed in Fund 42. Exhibits: Agreement is on file with the City Clerk.
2. Consider approving contract Amendment #2 with Garver, LLC for additional engineering services for the Rogers Lane (Flower Mound to I44) Roadway Project #2008-1. Exhibits: Amendment #2 to Agreement.
3. Consider approving Change Order No. 1 for the 2008 CIP Waterline Replacement Phases 1 and 2 Project #2008-12 with Bowles Construction Company. Exhibits: None.
4. Consider releasing the performance bond for drainage improvements in Scissortail, Part 1, and accepting the water, sewer, and public drainage improvements, escrow agreement in lieu of incomplete minor improvements, and maintenance bonds. Exhibits: Plat Map. Escrow Agreement and Maintenance Bonds on file in City Clerk's Office.

Long stated staff is requesting that item #4 be stricken from the agenda. There was a thirty day window in which this developer had an opportunity to make the adjustments that were required. The developer is working on these and has not extended past his thirty days and this will come back on the December 14th meeting.

5. Consider approving appointments to boards and commissions. Exhibits: None.
6. Consider approval of payroll for the period of November 1 - 14, 2010.

NEW BUSINESS ITEMS:

7. Receive the semi-annual update of the hotel/motel tax funded activities for FY 2010-2011 from the Northside Chamber of Commerce. Exhibits: None.

Nicole Bailey, Executive Director of the Northside Chamber of Commerce, distributed a report to the Council which covers from July 1st to November 19th. She stated they are hands on with business client development loan packaging, certification packaging, procurement packaging, and really anything a person may need to start a business. She stated they brought in two contracts which created three part time jobs, seven full time jobs and retained four. She provided a budget showing how they have spent their hotel/motel funds.

Burk stated there have been times when he has had questions regarding reports from both chambers and he cannot get this read when this is distributed at the meeting. He would prefer to have these delivered with the agenda packets.

Ms. Bailey stated she will make sure they go out with the agenda in May. She stated she would be happy to meet with any councilor if they have any questions at any time.

Mayor Fitch suggested that Ms. Bailey return at the December 14th meeting to answer any questions the council may have.

8. Receive the semi-annual update of the hotel/motel tax funded activities for FY 2010-2011 from the Lawton Fort Sill Chamber of Commerce. Exhibits: None.

Tim Hushbeck, Chairman of the Lawton Fort Sill Chamber of Commerce, stated there is no action to be taken, this is just the semi annual report. He stated he agrees that the council should be perusing the report before the meeting. It has been an interesting year for the chamber as this has been a year of transition. He introduced the new President and CEO, Sheila Lee.

Sheila Lee, President and CEO of the Lawton Fort Sill Chamber of Commerce, stated hotel/motel funding helps to fuel the economic development and tourism recruitment activities. She stated their organization is about creating jobs and enhancing the quality of life for the citizens of Lawton and Fort Sill. In July information was sent to 300 economic development site selection professionals from across the country. The economic development department has responded to six requests for proposals since July with a total possible job increase of 1,233. Wage estimates range from \$12 per hour to upper management wages. A local business will be expanding by several dozen jobs within the next few months. She stated March 1st will be annual state legislative reception and April 6-8

has been scheduled for the annual Washington D.C. fly in. She stated they have issued over 1,400 visitor guides with top requests generated from Texas, Arkansas and Missouri. She stated tourism continues to grow in this area.

Burk stated that the Lawton Enhancement Trust Authority has been working hard on the 38th street ball parks in the past few weeks. They have put in \$60,000 worth of landscaping, sprinkler system and field one is complete. He stated the softball tournament will be bringing a lot of people to Lawton soon. He questioned how they could get the ball park completed and ready. There is enough money to finish every field, but they need to address the awnings and the fencing that is not a huge dollar item. He needs the chambers help to get this funded and work together to get something done before the 2011 tournaments.

Ms. Lee stated they would be happy to look at a funding solution for what needs to be accomplished. If there is a way the chamber can help, they want to be a part of the solution.

Mayor Fitch stated we need to improve what we can.

Burk stated they always get the monthly financial report from the Lawton Fort Sill Chamber but he never sees any report from the Northside Chamber.

Mayor Fitch stated Ms. Bailey includes financials in her report. He suggested that if anyone has any questions about their report they can contact the City Clerk and Ms. Bailey can attend the next meeting only if necessary.

9. Hold a public hearing and consider a resolution amending the 2030 Land Use Plan from Agriculture to Residential/Low Density and an ordinance changing the zoning from Temporary A-1 (General Agricultural District) to R-1 (Single-Family Dwelling District) zoning classification with a Planned Unit Development overlay district located approximately mile west of NW 82nd Street and mile south of NW Cache Road. Exhibits: Resolution No. 10-___, Ordinance No. 10-___, Site Plan, Location Map, Applications and CPC Minutes.

Richard Rogalski, Planning Director, stated this request is for a 17.80 acre tract to be platted as part of Saint James Place, which is a gated, single-family residential subdivision. The property owner and applicant is Quail Ridge, Inc. The zoning of the surrounding area is R-1 with PUD overlay and Temporary A-1 to the north and east, and Temporary A-1 to the south and west. The land use of the surrounding area is single-family residential to the north (St. James Place, Part 1) and east (Stonebridge Estates) and agriculture to the south and west. The 2030 Land Use Plan designates this area as Agriculture. On October 28, 2010, the City Planning Commission held a public hearing on this request. No one spoke for or against the request. The CPC, by a vote of 6 0, recommended approval. He stated because this is a PUD it is a binding development plan. Currently there is only one entrance to this subdivision and the Fire Marshall has requested, as part of the construction plat, they have two ways into the apartment complex as well as the subdivision. He stated St. James Place is served by a sewer lift station and as part of the construction plat process, the engineers will have to give a report to show that the lift station does have capacity for this.

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

MOVED by Drewry, SECOND by Zarle, to adopt **Resolution 10-112** amending the 2030 Land Use Plan from Agriculture to Residential/Low Density. AYE: Burk, Zarle, Haywood, Wells, Tennis, Drewry. NAY: None. MOTION CARRIED.

MOVED by Drewry, SECOND by Burk, to adopt **Ordinance 10-40**, waive the reading of the ordinance, read the title only. AYE: Zarle, Haywood, Wells, Tennis, Drewry, Burk. NAY: None. MOTION CARRIED.

(Title read by City Attorney) Ordinance 10-40

An ordinance changing the zoning classification of the tract of land which is hereinafter more particularly described in Section 1 hereof from the existing classification of Temporary A-1 (General Agricultural District) to R-1 (Single-Family Dwelling District) zoning classification with a planned unit development overlay district; authorizing changes to be made upon the official zoning map in accordance with this ordinance.

10. Hold a public hearing and consider an ordinance changing the zoning from R-1 (Single-Family Dwelling District) to C-1 (Local Commercial District) zoning classification located at 1917 West Gore Boulevard. Exhibits: Ordinance No. 10-___, Site Plan, Location Map, Application and CPC Minutes.

Rogalski stated this request is for Lot 20, Block 5, Lee Addition. The applicant, Bradford Estates, LLC, has submitted plans to construct the third phase of Lamplighter Plaza on Lots 20 and 21. Lot 21 is currently zoned C-1.

The zoning of the surrounding area is R-1 to the north and C-1 to the south, east, and west. The land use of the surrounding area is single-family residential to the north, commercial to the south and west, and a day care center to the east. The 2030 Land Use Plan designates this area as Commercial. Lot 20 is the only lot on the north side of

Gore Boulevard between Fort Sill Boulevard and Sheridan Road that is zoned R-1.

On October 28, 2010, the City Planning Commission held a public hearing on this request. No one spoke for or against the request at the public hearing. The CPC, by a vote of 6 0, recommended approval of the rezoning subject to the site plan being amended to include a screening fence between the C-1 lots and the R-1 lots to the north. The site plan is a binding site plan and would be approved as part of the ordinance.

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

MOVED by Burk, SECOND by Drewry, to adopt **Ordinance 10-41**, waive the reading of the ordinance, read the title only. AYE: Zarle, Haywood, Wells, Tennis, Drewry, Burk. NAY: None. MOTION CARRIED.

(Title read by City Attorney) Ordinance 10-41

An ordinance changing the zoning classification from the existing classification of R-1 (Single-Family Dwelling District) to C-1 (Local Commercial District) zoning classification on the tract of land which is hereinafter more particularly described in section one (1) hereof; approving the site plan attached as Exhibit A; and authorizing changes to be made upon the official zoning map in accordance with this ordinance.

11. Consider an ordinance amending Section 7-20-1-2005, Division 7-20-1, Article 7-20, Chapter 7, Lawton City Code, 2005, pertaining to issuing of license for residential sale (garage/yard sale), providing for severability and declaring an emergency. Exhibits: Ordinance 10-___.

Doug Wellhouse, Code Plans Supervisor, stated the current code does not allow for any type of a time period for a person to come in and re-establish a garage sale permit. Staff offers this free of charge if the person can prove that their sale was cancelled due to inclement weather. They recently had a person come in two months later requesting their permit. He stated this ordinance will establish a time limit on when they could come back in and request a new permit.

Burk questioned why they chose three days.

Wellhouse stated they can change the number of days.

Mayor Fitch suggested a seven day window so that they could have the sale on the following weekend.

Wellhouse stated they can issue the permit for a thirty day window so that it does not require them to have it the following weekend. They just do not want to wait that long to re-issue the permit.

Burk stated if they don t meet the three day period to have the permit reissued then they have to wait thirty days before they have another sale.

Wellhouse stated residents are allowed three sales in a one year time period.

Burk suggested they give residents a five day window to reapply for the permit.

MOVED by Wells, SECOND by Drewry, to adopt **Ordinance 10-42**, amending the ordinance in paragraph A to reflect five business days as opposed to three business days, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Haywood, Wells, Tennis, Drewry, Burk, Zarle. NAY: None. MOTION CARRIED.

(Title read by City Attorney) Ordinance 10-42

An ordinance amending Section 7-20-1-2005, Division 7-20-1, Article 7-20, Chapter 7, Lawton City Code, 2005, pertaining to issuing of license for residential sale, providing for severability and declaring an emergency.

12. Consider amending Chapter 19, Article 5, Lawton City Code, 2005, by adding Section 19-5-523 relating to the permit requirement for the public use and rental or lease of the City s indoor pavilion/boathouse area at Robinson s Landing, Lake Lawton, authorizing the creation of a fee for such rental/lease and providing for severability, codification, and declaring an emergency. Exhibits: Proposed Ordinance 10 - ___.

Shahan stated Robinson s Landing used to have a store and a bait shop but two years ago they could not rent that facility to use as a store. Staff has recognized that group use facilities are limited in this region. He recommended to the lakes commission that they take that building and use it for public group activities. He stated this ordinance will establish a policy and procedure in terms of the way a public group would be able to access this facility. He stated the next item would be for establishing a fee.

Burk questioned why they would have to submit an assembly permit no less than ninety days.

Shahan stated they would not be able to rent the facility 91 days out.

Drewry stated she feels this is a great idea.

MOVED by Haywood, SECOND by Drewry, to adopt **Ordinance 10-43**, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Wells, Tennis, Drewry, Burk, Zarle, Haywood. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 10-43

An ordinance amending Chapter 19, Article 5, by adding Section 19-5-523, Lawton City Code, 2005, relating to the permit requirement for the public use and rental or lease of the city s indoor pavillion/boathouse area at Robinson s Landing, Lake Lawtonka, authorizing the creation of a fee for such rental/lease, and providing for severability, codification, and declaring an emergency.

13. Consider amending Appendix A, Schedule of Fees and Charges , Lawton City Code, 2005, as amended, by establishing the Schedule of Fees and Charges for the public use and rental/lease of the City s indoor pavilion/boathouse area at Robinson s Landing, Lake Lawtonka by adopting a resolution and establishing and effective date. Exhibits: Proposed Resolution 10 - ____.

Shahan stated this item will establish the fees. He stated there is a minimum amount of services for group use facilities in the lake region and there is a facility seven miles to the west of Robinsons Landing and it has a capacity of 90 beds with a dining facility with a commercial kitchen. The rental on this facility is \$250 a day. That is the only place they could compare as far as establishing a fee structure.

Jensen stated he has some issues with the way the fee schedule is worded. He recommended that instead of using the term non holiday weekend it should state a period of permit exclusive of federal holidays with the first day being \$250 and each day thereafter up to six days would be \$150. A period of permit inclusive of a federal holiday, each day up to six consecutive days is \$250 per day.

Drewry stated that this seems high.

Burk questioned if the fees goes back into upgrading the facility. He questioned if they could get a commercial grade kitchen in this facility as well as get some things done if they put the fees where they need to be. He felt that \$250 was not bad if it had a commercial kitchen. He questioned if they keep track of how much these fees raise.

Shahan stated yes the fees are recorded.

Zarle questioned if we normally put the funds back into these buildings.

Jensen stated if they are going to allocate these fees you would have to say in the ordinance that the fees from this activity would need to be put in a certain fund and identify that fund.

Drewry suggested \$150 a day.

Tennis suggested they wait and see what the market will bear and they can always come back and adjust the fee.

Burk requested that Shahan bring this fee back to the City Council if no one is renting the facility. He stated he is not sure they should dedicate the fees right now, but they can keep an eye on it and see how much it brings in and be sure they fund enough to do the repairs.

Shahan stated over the past four years they have improved the camp sites and changed the complexion of that area and now the bait shop will be usable for the community. He stated they are making progress and he will keep the Council abreast of who and how it is being rented. He stated there is a great need for quality group use facilities within the lake region.

Drewry questioned if there was swimming.

Shahan stated there is swimming within the area but not directly at that site. It is approximately 200 yards from that spot. He stated they were going to put a playground unit out there.

MOVED by Wells, SECOND by Zarle to adopt **Resolution 10-113**, to include changes made by the City Attorney and establish an effective date of January 1, 2011. AYE: Tennis, Drewry, Burk, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Tenis stated the Fishing For Food event held last Saturday at Elmer Thomas Park was very successful. There were 550 plus people participating. In a four hour period they raised 1,472 pounds of food for the Lawton Food Bank. He thanked parks and recreation staff and all of the volunteers who came out.

Long stated that along with the fishing event, Frost Your Fanny Run and the holiday parade made for a full day on Saturday.

The Mayor and Council convened in executive session at 7:18 p.m. and reconvened in regular, open session at 7:32 p.m. Roll call reflected all members present.

BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

14. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending damage claim of Dorothy Sue Brian, DC-2010-046, and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item 14. No Action was taken.

15. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending damage claim of Joseph and Paula Miller, DC-2010-052, and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item 15.

MOVED by Burk, SECOND by Drewry to approve the pending tort claim with Joseph and Paula Miller in the amount of \$17,000 and authorize the City Attorney to prepare and file any and all documents necessary to finalize the settlement of the claim. AYE: Burk, Zarle, Haywood, Wells, Tennis, Drewry. NAY: None. MOTION CARRIED.

16. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending lawsuit in the United States District Court for the Western District of Oklahoma, Duane Green v. City of Lawton, et al., Case No. CIV-10-991-L, and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item 16.

MOVED by Wells, SECOND by Haywood to retain Clay Hillis to represent officers sued in their individual capacity in the case Duane Green v. City of Lawton and authorize the Mayor and City Clerk to execute a retainer agreement at the rate of \$125 per hour. AYE: Zarle, Haywood, Wells, Tennis, Drewry, Burk. NAY: None. MOTION CARRIED.

There being no further business to consider, the meeting adjourned at 7:35 p.m. upon motion, second and roll call vote.

/s/ Fred L. Fitch

FRED L. FITCH, MAYOR

ATTEST:

/s/ Traci Hushbeck

TRACI HUSHBECK, CITY CLERK