

Meeting of 2010-2-23 Regular Meeting

MINUTES

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

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

Mayor Purcell called the meeting to order at 6:05 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Dr. Charles Whitlow, Union Baptist Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT: James Hanna, Ward Two
Janice Drewry, Ward Three
Jay Burk, Ward Four
Robert Shanklin, Ward Five
Richard Zarle, Ward Six
Stanley Haywood, Ward Seven
 Doug Wells, Ward Eight

ABSENT: Bill Shoemate, Ward One

PROCLAMING MARCH 2010 AS RED CROSS MONTH

Mayor Purcell proclaimed March 2010 as Red Cross Month in the Lawton Fort Sill community.

STATE OF THE CITY ADDRESS BY MAYOR JOHN P. PURCELL, JR.

Mayor Purcell read highlights from the State of the City speech. The entire speech is posted on the website and on file in the City Clerks Office.

AUDIENCE PARTICIPATION: None.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL SPECIAL MEETING OF JANUARY 26 AND THE REGULAR MEETING OF FEBRUARY 9, 2010.

MOVED by Hanna, SECOND by Burk, to approve the minutes of the special meeting of January 26, 2010 and the regular meeting of February 9, 2010. AYE: Zarle, Haywood, Wells, Hanna, Drewry, Burk, Shanklin. 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 that someone would like to speak about a claim on item #1.

MOVED by Drewry, SECOND by Hanna, to approve the consent agenda with the exception of item #1. AYE: Haywood, Wells, Hanna, Drewry, Burk, Shanklin, Zarle. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for approval and consider passage of the resolutions authorizing the City Attorney to file a friendly suit for the claims which are over \$400.00: Kristina Montgomery in the amount of \$2,269.83 (**Res. 10-14**), Clay Carson in the amount of \$1868.84 (**Res. 10-15**) Margaret and Milton Landmark through their attorney Edward Dzialo Jr., in the amount of \$13,500.00 (**Res. 10-16**), and Thomas

and Inez Love in the amount of \$523.30 (**Res. 10-17**). Exhibits: Legal Opinions/Recommendations, Resolution No.____, Resolution No.____, Resolution No.____, and Resolution No.____.

Mayor Purcell stated Mr. Thomas Love is in attendance and would like to speak about his claim.

Thomas Love, 7127 NW Ashe, stated he submitted a claim for an automobile accident in which a city employee hit the back of his car. He stated his claim has been approved but he is concerned about the medical portion of the claim. He stated he has filed with workers comp, but as of this date, the claim has not been approved. He requested his claim be tabled so that if workers comp does not pay all of the claim he can ask the City to pay that portion.

Kelea Fisher, Assistant City Attorney, stated the City is specifically exempt from paying damages that would be covered by the workers compensation act. When Mr. Love was injured he was employed by DHS and he was covered by workers comp. She stated she was informed that the \$200 portion of the claim was expected to be paid by workers comp. She stated if the City does pay that portion of the claim it is likely that Mr. Love will be paid twice.

Jensen stated that staff does not recommend they table this claim.

Wells questioned what will happen if workers comp does not pay the claim.

Jensen stated this exemption applies if there is the possibility of coverage and whether Mr. Love gets what he is asking for or not in connection with those benefits, it is really not our business. He stated the exemption definitely applies and the City should not pay for that portion of the claim.

Haywood stated the claim is just for vehicle damage.

MOVED by Drewry, SECOND by Hanna, to approve the damage claims of: Kristina Montgomery in the amount of \$2,269.83 (**Res. 10-14**), Clay Carson in the amount of \$1868.84 (**Res. 10-15**) Margaret and Milton Landmark through their attorney Edward Dzialo Jr., in the amount of \$13,500.00, (**Res. 10-16**) and Thomas and Inez Love in the amount of \$523.30 (**Res. 10-17**). AYE: Wells, Hanna, Drewry, Burk, Shanklin, Zarle, Haywood. NAY: None. MOTION CARRIED.

2. Consider adopting a resolution ratifying the action of the City Attorney and the City Manager in directing our third party administrator to make payment on the judgment in the Workers' Compensation case of Ricky Prince in the Workers' Compensation Court, Case No. 2009-00364L. Exhibits: **Resolution No. 2010-18**.

3. Consider accepting the second Big Read grant of \$20,000 from the National Endowment for the Arts thru Arts Midwest to be received in two installments. Exhibits: The Big Read agreement is on file in the City Clerk s office.

4. Consider entering into a lease agreement with Pitney Bowes for a Digital Mailing system. Exhibits: Proposed lease agreement is on file in City Clerk s Office.

5. Acknowledge receipt of election returns of December 8, 2009 and February 9, 2010. Exhibits: Official Certification of Votes from Comanche County Election Board.

6. Consider a request from Great Plains Improvement Foundation (GPIF), Inc. to approve a proposed Emergency Shelter Grant (ESG) project and authorize the Mayor to sign the Certification of Local Approval for the ESG application to the Oklahoma Department of Commerce (ODOC). Exhibits: Exhibit A: GPIF Letter of Request with Form ODOC- 4, Certification of Local Approval.

7. Consider adopting a Resolution authorizing the installation of traffic control measures on NW 68th Street and NW 69th Street Loop for both directions. Exhibits: Traffic Commission Minutes, Traffic Issue Requests, and **Resolution No. 10-19**.

8. Consider denying the requests for traffic control measures on eastbound NW King Richard Avenue at the intersection of NW Friar Tuck Lane. Exhibits: Traffic Commission Minutes and Traffic Issue Request.

9. Consider acknowledging receipt of a Tier I permit from the Oklahoma Department of Environmental Quality for the construction of 86 linear feet of 8-inch PVC water line and all appurtenances to serve the Western Hills Christian Church located at 1401 NW 82nd Street in the SW/4 of Section 20, T2N, R12W, I.M., Comanche County, Oklahoma. Exhibits: Permit to Construct on file in the City Clerk s Office.

10. Consider awarding (CL10-28) Aluminum Sulfate, Liquid to Chameleon Industries, Inc of Mesquite, Texas. Exhibits: department recommendation, abstract of bids.

11. Consider awarding (CL10-027) Repair Clamps, Bell Joint Clamps & Steel Couplings (Items 1-2, 7-8 & 10-12) to Water Products of Oklahoma from Owasso, Oklahoma. Exhibits: department recommendation, abstract of bids.
12. Consider extending the contract (CL09-022) Cationic Polymer to Ciba Corporation of Suffolk, Va. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.
13. Consider extending the contract (CL09-032) Thermoplastic Material & Epoxy Primer/Sealer to The Sherwin Williams Company of Manchester, Ga. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.
14. Consider extending the contract (CL09-046) Heavy Wrecker Service to Alford s Truck & Wrecker of Lawton, OK. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.
15. Consider approval of payroll for the period of February 8 21, 2010.

OLD BUSINESS ITEMS:

16. Consider approving an ordinance granting to Public Service Company of Oklahoma, an Oklahoma Corporation, it successors and assigns, a non-exclusive franchise for twenty-five (25) years to use the streets, alleys, avenues, ways, and other public places and grounds in the City of Lawton, Comanche County, Oklahoma, for building, equipping, maintaining, extending, owning, and operating a system for the manufacture, transmission, distribution, sale, and control of electricity and communication circuits in and to the city and the public generally. Exhibits: Ordinance No. 10-____.

Jensen stated he sent an email to members of the City Council updating them on the status of the progress with PSO officials. He indicated there were still some items of difference and they are not ready for Council to take action on items 16 and 17. There is also a proposal on the table to possibly cost share for a bigger redevelopment project that will require a major utility line relocation and they are hoping that PSO will be receptive to some kind of a cost share proposal. He would recommend they table items 16 and 17.

MOVED by Wells, SECOND by Zarle, to table items #16 and #17 to March 9, 2010. AYE: Hanna, Drewry, Burk, Shanklin, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

17. Consider approving a resolution authorizing the calling and holding of a special election in the City of Lawton, State of Oklahoma, for the purpose of submitting to the registered qualified electors of said City the question of approval or rejection of Ordinance No. 10-_____ of the City, more particularly described as an ordinance granting to Public Service Company of Oklahoma, an Oklahoma Corporation, it successors and assigns, a non-exclusive franchise for twenty-five (25) years to use the streets, alleys, avenues, ways, and other public places and grounds in the City of Lawton, Comanche County, Oklahoma, for building, equipping, maintaining, extending, owning, and operating a system for the manufacture, transmission, distribution, sale, and control of electricity, and information distribution in and to the City and the public generally, and authorizing the Mayor and City Clerk to execute the Resolution and Special Election Proclamation and Notice. Exhibits: Resolution No. 10-____ and Special Election Proclamation and Notice.

NEW BUSINESS ITEMS:

Mayor Purcell stated there is a request to move up item #20 because there are a lot of citizens in attendance to speak on this issue.

20. Consider discussing a request from the Lawton Enhancement Trust Authority (LETA) to include an option on the City of Lawton utility collection bill for voluntary monetary donations to support beautification programs. Exhibits: Council Policy 1-9; Requests to City Staff by Council Members and the Mayor.

Dr. Rosemary Bellino-Hall, 21 NW 38th Street, stated she is the President of Lawton Beautiful, Inc., the Chairman of the Mayor s Task Force to Improve the Appearance of Lawton and the Treasurer of the Lawton Enhancement Trust Authority (LETA). She stated beautification is an economic issue and all of the projects they have done have been through grants and donations. They have no overhead. She requested that the City Council ask city staff to add a line to the water bill asking for a donation of \$1 or more to be delivered to LETA for beautification or ask residents to round up their bill. This money would go to the LETA treasury and this money has no earmarks at the present time. There are some major projects on the table right now that they have to complete. They are asking the Council to move forward and ask staff to look at the bill and to make a decision on whether to ask for a donation or to possibly round up the bill.

Mayor Purcell stated the Council needs to discuss where they are going with this. Putting a check off on the water

bill is easy, but the hard part is where they go from here and how to make this work, which is not so simple.

Wells stated he feels it is a mistake to do this on the water bill. He stated staff will have to set up a fund in our accounting system which will then have to be audited. There will also be additional work load in revenue services where a clerk will have to check every bill. He questioned what they would do when the next organization comes in and wants the same thing. He stated the Council is then in a position to decide who goes on the water bill and who does not.

Burk stated LETA is a trust authority for the City of Lawton, they are not just another non profit organization, so he does not agree with that assessment. He does agree there are a lot of things they are going to have to address. Tonight they need to decide if they just want to start the process and at least look at what the obstacles are. They are here tonight to decide if they want to use city staff time to research this issue to see what they can do.

Mayor Purcell stated there is a Council Policy that says the Council has to approve using staff time if an issue takes more than one hour. This will obviously take more than one hour.

Shanklin stated he does not see a problem with it if it is strictly voluntary.

Drewry stated she feels this is a worthwhile project and she supports whatever time it takes to find a way to fund these projects to help our city.

Mayor Purcell stated there are 3,700 people who actually pay their bills through an automatic deduction from their bank. How would they do this if they wanted? He personally pays his bill online, so he could add a dollar to his bill, but how would city staff know how to do that when they got the check in. There is a whole variety of issues here. It is a great idea, but they need to research what other communities are doing to see if it is worthwhile. He stated that maybe during the budget the City Council needs to put money in the LETA fund at the beginning of each budget year.

Debra Jones, Lawton Beautiful Inc., stated it is different if the community buys into the project rather than the Council appropriating the funds. This becomes a community project and that is what they are trying to inspire, a different appearance in the community.

Dr. Bellino stated the community needs a mechanism to be able to donate to their projects. The community needs to be a part of what they are doing. They need to be able to find a way to do this.

Rick Endicott, Finance Director, stated they can doing something quickly by putting a message on the utility bill that says if you would like to make a donation, make checks payable to Lawton Beautiful and have a post office box or staff will collect checks and deliver to Lawton Beautiful. He stated he would ask that checks not be made payable to the City of Lawton. He stated this is viable solution to start collecting money. There are a tremendous amount of hurdles they need to overcome. He stated a lot of other cities do something similar, but not on the water bill.

Wells stated they can write a separate check and put it in with their water bill.

Endicott stated they need to keep it separate from our accounting system for the current time. It will take a while to look at the whole process. They are not trying to hinder the process of collecting money. He stated this will go out to approximately 30,000 customers, but a lot of apartment dwellers do not see their bill.

Haywood questioned how Public Service Company of Oklahoma (PSO) handles this.

Tim Hushbeck, PSO representative, stated there is a check off on their bill for Light a Life and it goes for utility assistance. He stated their accounting system would be different than the City of Lawton s. He stated he is a member of LETA and he understands how important it is to continue to beautify this city and make it presentable for economic development prospects coming in.

Haywood stated LETA is the City of Lawton and we are trying to beautify the city of Lawton. He questioned if the City could set up a separate account.

Endicott stated there are different alternatives. The citizens could send it in with their check or they could send it directly to a post office box. Staff can help in the process of collecting money but it is very important that they cannot assume they can put it on the utility bill as a check off without staff really making sure what is expected of the City of Lawton and what are the expectations in the exception. They are really more concerned about the exceptions. The accounting system is not set up for donations on a voluntary basis. They will have to figure out how to do all that. If the citizens would send in a check made out to Lawton Beautiful then it is a very simple process and they can keep it separate from the accounting system until staff can be assured that they are doing this correctly. He is recommending that they put a note on the utility bill that if a citizen wants to make a donation

they make the check out to Lawton Beautiful and then give an address on where to send that check.

Rex Givens, Director for LETA, stated this idea has been discussed for two years and they do this kind of thing in other cities like Norman. They have had several meetings with Mr. Endicott and his staff and they have never been able to come to any agreement on their part except they just don't want to do it. Staff has a lot of excuses and reasons. He stated their idea was to have a form that people could sign, have witnessed by another person, and that could be turned in to the City and entered into the computer every few months. They would even offer to pay for overtime for staff to do this. He requested the City Council direct staff to work with them to try and work something out that the City Council would approve of.

Mayor Purcell stated they need a motion to direct the City Manager to figure out a way to allow people to contribute, through the water bill, to Lawton Beautiful. He stated for the interim, they can put a notice on the water bill that if you want to contribute to Lawton Beautiful, write a check made out to Lawton Beautiful and either include it in your water bill or mail it to a post office box. This will get the cash flowing right away. He stated this is not as simple as everyone thinks, Oklahoma City farms this out to another organization that collects the money.

Wells stated that about fifteen years ago, Mayor Marley started a program like this, citizens giving extra on their water bill to help citizens who could not pay their water bill. He stated they ended up getting about \$15. Just because they put something on the bill, that doesn't mean that the money will start flowing in. They need a mechanism to see if it is viable.

Mayor Purcell stated that is what the City Manager will be directed to do in this motion.

MOVED by Burk, SECOND by Drewry, to direct the City Manager to figure out a way to do this and in the interim place a message on the utility bill within the next few cycles instructing citizens who want to make a donation to either enclose a check or mail it to a post office box. AYE: Drewry, Burk, Shanklin, Zarle, Haywood, Wells. ABSENT: Hanna. NAY: None. MOTION CARRIED.

18. Consider adopting a Resolution authorizing the City of Lawton to enter into a Memorandum of Understanding with the Comanche County Juvenile Bureau, the Lawton Fort Sill Chamber of Commerce, the Northside Chamber of Commerce, the Lawton Housing Authority, Lawton Public Schools, Marie Detty Youth & Family Services, and other interested parties and assist in the implementation of the Office of Juvenile Justice & Delinquency Prevention Comprehensive Gang Intervention Model and authorizing the Mayor to execute the Memorandum of Understanding. Exhibits: Resolution 10-____ and Proposed Memorandum of Understanding.

Bryan Long, Assistant City Attorney, stated he is the Chairman of the Lawton Gang Intervention Steering Committee. He stated this item, referred to as the model is derived from the Office of Juvenile Justice and Delinquency Prevention Agency (OJJDP). He stated this Memorandum of Understanding most closely relates to community mobilization, which is agencies taking a stand saying this is what we are going to do in our community and working with other agencies to combat this issue of gang intervention.

Long introduced those representatives from the different agencies that were in attendance.

Rick Lowe, Director of the Comanche County Juvenile Bureau, stated Lawton has had the presence of gang influences within this community. In the fall of 2007 they were contacted by the Office of Juvenile Affairs in Oklahoma City who had some federal dollars for the Lawton area if we would implement this federal gang model.

He stated they met with the Mayor's staff and the Chief of Police and decided that the Comanche County Juvenile Bureau would be the agency that would lead because they were working with them on a number of other initiatives. He stated they recognized that this would require a large partnership. A requirement was to study the gang problem in the area. Cameron University is doing that study. He stated this is a \$100,000 per year grant and it is in the final third year. The past two years they have funded overtime for gang officers at \$17,500 per year.

They have also funded two street outreach counselors with Marie Detty Youth & Family Services. They target those in gangs and those kids who are at risk of going into gangs. He stated gang activity is down and they have reduced violent juvenile crime by 26% in the past two years. He stated all of the community partners are making a difference.

Mayor Purcell stated Mr. Lowe is the driving force behind this and he thanked him on behalf of the entire city.

Brian Pack, Street Outreach Counselor from Marie Detty Youth and Family Services, stated they work to steer kids away from gang life and inform them of the consequences of gangs. They try to get them involved in more positive things within the community. They have received a lot of support from Lawton Public Schools in the past two years. They go out to schools, civic organization and churches and keep people informed about trends in the gang culture and tools they can use to prevent kids from getting involved in gangs. He stated a comprehensive model helps to reduce gang violence. He stated this is a culture that has not gone away, but they have put a significant dent in the gang culture. Now is not the time to let up, they need to keep doing this. They need to do all they can as a community to be innovative and come up with as many ideas as they can to reduce the numbers of kids getting

involved in gangs.

Zarle questioned if they were involving the parents in the counseling.

Mr. Pack stated yes. They have given presentations at PTA meetings to inform parents about what is going on.

MOVED by Zarle, SECOND by Drewry, to adopt **Resolution 10-20** authorizing the City of Lawton to enter into a Memorandum of Understanding with the Comanche County Juvenile Bureau, the Lawton Fort Sill Chamber of Commerce, the Northside Chamber of Commerce, the Lawton Housing Authority, Lawton Public Schools, Marie Detty Youth & Family Services, and other interested parties and assist in the implementation of the Office of Juvenile Justice & Delinquency Prevention Comprehensive Gang Intervention Model and authorize the Mayor to execute the Memorandum of Understanding. AYE: Drewry, Burk, Shanklin, Zarle, Haywood, Wells, Hanna. NAY: None. MOTION CARRIED.

19. Consider discussing delaying the relocation of the 2011 Arts for All Festival to Elmer Thomas Park at the request of the Art for All Festival Committee. Exhibits: Letter to the Festival Committee; January 5, 2010 and Letter from the Festival Committee; January 20, 2010.

Mitchell stated a letter was sent to the Arts For All committee giving them notice to relocate to Elmer Thomas Park by 2011 and that was from the direction of the City Council. There is also a response letter from the committee requesting more time. He stated staff needs some direction from the City Council and to see if they can come to an understanding on what the preferred approach might be.

Mayor Purcell stated there are members of the Arts For All committee that would like to address this issue.

Victor Leary, 2010 Chairman for the Arts For All festival, stated he understands all of the effort and cost that goes into setting up the festival. He introduced Chris Gill, head of the artist s area and a member of the committee.

Chris Gill, Arts For All committee, stated she has been involved with the festival for 23 years. She stated she has traveled to hundreds of art festivals throughout the country and have brought back ideas and experiences that help keep the festival improving. Arts For All is 35 years old and Shepler Park has been the home for the festival for 26 years. They have been told by staff that they would never be forced to make this move, it would always be their decision. She stated in November they created a task force to analyze the pros and cons of a move. She stated they were blindsided by the recent letter from the City. She stated there are great differences between the International Festival and the Arts For All Festival. The International Festival is basically a music festival and Arts For All is a fine arts festival. The set up needs are very different. The International Festival also has a large pool of city staff to draw from to help fill the 300 plus volunteers needed to man Elmer Thomas Park. Arts For All used less than 100 volunteers which include many that are over 70 years old and under 18 years old. The undertaking to plan and execute this type of move cannot be done in one year. She stated Elmer Thomas Park is not built to allow this number of artists with their large vehicles and their trailers to enter and exit the area to set up in. She stated they are requesting that this discussion be tabled until 2013, which will allow for the completion of Elmer Thomas Park plus the completion of 2nd Street. She stated forcing a move by 2011 is not adequate time to finance and plan this move.

Mayor Purcell questioned if the committee did not want to move until 2013 or if they did not want to even discuss the issue until 2013.

Ms. Gill stated they are asking for time to fully assess the park and other optional areas and then come back and discuss with the City Council. She stated this will take a number of years to do this. The discussion can start, but they cannot move until 2013.

Mayor Purcell clarified that they do not want to move until 2013.

Ms. Gill stated no. She is requesting that the City Council allow them to look and see if this is a move that they can make without harming Arts For All and they are asking that this discussion be continued in the future.

Mayor Purcell stated they would not delay the move for two years, but delay the discussion for two years. The Council needs to decide what information they want to give the City Manager.

Drewry stated she does not have a problem with the current location. She stated this is one weekend out of the year. She agrees they need to take the time to study this and to think carefully about where to move it. The park right now is not the place to move it, but maybe there is somewhere else that would work.

Zarle stated that surely in three years they could come up with a solution.

Mr. Leary stated their original plan was to have a study done this spring which would give them a plan on what they want to do.

Shanklin stated he does not want to force anyone to do anything. They have been successful where they are and not everyone can go to the park. He would agree to table this discussion until 2013.

Mayor Purcell stated tonight they just need to give the City Manager some direction. He stated if it the consensus of the Council that they don t want them to move, they need to give that guidance to the City Manager.

Haywood stated he agrees that they should stay where they are.

Mitchell stated that discussions through the budget process the past two years have been about how to develop Elmer Thomas Park and how they make that the event center for the community. They general direction he thought he was getting was that this is where all of these activities were going to take place. He stated this is where they thought they were going based on all of the investments they were making in Elmer Thomas Park. He has no objections if that direction has changed.

Haywood stated that Elmer Thomas Park is so large and this festival is very small and close knit. He stated the consensus of this Council is to leave them where they are.

MOVED by Shanklin, SECOND by Drewry, to rescind the letter sent by the City Manager and do not make the Arts For All change location anytime in the foreseeable future. AYE: Burk, Shanklin, Zarle, Haywood, Wells, Hanna, Drewry. NAY: None. MOTION CARRIED.

21. Consider approving the transfer of \$3,170,000 from the City s 2000 CIP Program to fund Phase IV of the CJHS Restoration Project and authorize the City Manager to issue a financial RFP for a construction/bridge loan in an amount not to exceed \$2,500,000 for the purpose of funding the balance of the Phase IV project cost. Exhibits: Letter from Wells Nelson & Associates dated January 22, 2010, MA Architecture Lawton City Offices Phase IV Packet and Legal Opinion from City Attorney dated February 17, 2010.

Mitchell stated a month ago during a workshop, staff outlined a proposal for starting on Phase IV of the restoration project at the future city hall. The discussion laid out a recommendation made by Meyer Architect to include the north wing first floor as the base bid and three alternates for the main auditorium, auditorium lobby and first floor conference center for a total budget of \$5.3 million. This phase would be useful for the city hall relocation as well as a great community space for various organizations. He stated it was suggested that they use the balance of the 2000 CIP money which is approximately \$3.1 million and combine that with a short term bridge loan of \$2.5 million to allow them to move forward with phase IV of the project. If the Council decides to proceed with this option, there is a series of motions that need to be considered. The Council needs to determine if the two remaining projects in the 2000 CIP are still viable. Once those motions are passed, the final action would be to close out the 2000 CIP program and utilize those dollars to fund phase IV along with the bridge loan and authorize the City Manager to proceed with an RFP and receive bids on the interest and rates for that bridge loan. The bridge loan would be repaid either through the 2012 CIP program or city operating revenues at the conclusion of the project or the sell of assets including land or other property.

Mayor Purcell stated the three separate motions would be to cancel the W. Gore street project because we are not getting ODOT funding for it. The second motion is to cancel the landfill maintenance building and the third would be to transfer the \$3,170,000 to this project.

Shanklin stated they need to tell the taxpayers how much money they have in that building.

Mitchell stated in the 2005 CIP there was an estimated budget of \$12 million. Due to the increase of construction costs and the loss of \$2 million from the Oklahoma State Centennial Commission, that price has gone up to \$15 million. They are estimating that the total cost of this project will be approximately \$16 million.

Shanklin stated he did not think they could start a project like this without the money in hand.

Mitchell stated the bridge loan will provide the money to complete the project.

Jensen stated there has to be some funding earmarked in the general fund in case there is not future funding in the 2012 CIP to cover the bridge loan.

Shanklin stated they have never talked about heating and cooling costs. Where will they get that money.

Mitchell stated the transfer of maintenance from Lawton Public Schools occurred in December. They are already obligated to cover those expenses.

Shanklin questioned the cost.

Endicott stated they have received one electric bill around \$2,500 for one month.

Shanklin stated the bill will be more once everyone moves in. They will be looking at \$8,000 or \$9,000 a month. His only complaint is they are doing this one bite at a time. He feels they should have had all of the money before they bit into that apple.

Mitchell stated they had the money, but they were shorted by the Centennial Commission. We would already be in the building had they secured that \$2 million. They are at the point where \$10 million has been invested in the building and they could consolidate departments that are housed in at least three different facilities.

Drewry stated they are at a point where they just need to get this done. It is costing more to drag this out.

Mitchell stated the current city hall is getting to the point where it will need major maintenance. They have mechanical, heating and roof problems.

Burk stated a lot of times they bite off more than they can chew and then they have to go back and figure out how to fix it. That is the complaints he has been getting. When you get into these big projects, costs can increase substantially. He stated they have to get moved in.

Mitchell stated when they put together costs for the 2005 CIP it wasn't how much does it cost, it was how much can they afford. They tend to underestimate costs. He stated the only other option is to wait until the 2012 CIP.

Burk stated that is not an option.

Zarle stated he does not understand how they can take out a bridge loan on the 2012 CIP when they don't even know what they will have in 2012.

Mitchell stated the other project is to split the project in half and do the north wing and conference center and defer the atrium and lobby.

Burk stated that is just piecemealing it again. They need to just bite the apple and go on.

MOVED by Drewry, SECOND by Hanna, to cancel W. Gore street project based upon the lack of funding from the Oklahoma Department of Transportation to actually complete the project. AYE: Zarle, Haywood, Wells, Hanna, Drewry, Burk. NAY: Shanklin. MOTION CARRIED.

Ihler stated they will not have the Corp of Engineer permits for the landfill maintenance building for another 18-24 months.

Wells stated he would recommend to the City Manager that they try to find the money to fund the assessment, so they will be ready to go in the 2012 CIP.

Zarle stated that Public Works really needs this building.

Ihler stated they do need the building, but they are not able to move forward until they get this permit.

MOVED by Hanna, SECOND by Drewry, to cancel landfill maintenance building project due to lack of required permits. AYE: Haywood, Wells, Hanna, Drewry, Burk. NAY: Zarle, Shanklin. MOTION CARRIED.

MOVED by Burk, SECOND by Drewry, to approve the transfer of \$3,170,000 from the City's 2000 CIP Program to fund Phase IV of the CJHS Restoration Project and authorize the City Manager to issue a financial RFP for a construction/bridge loan in an amount not to exceed \$2,500,000 for the purpose of funding the balance of the Phase IV project cost.

SUBSTITUE MOTION by Zarle, SECOND by Shanklin, to not approve the bridge loan, but only use the \$3,170,000.

Burk stated they would not be able to finish the project.

Zarle stated he does not want to bridge loan the 2012 CIP.

VOTE ON SUBSTITUE MOTION: AYE: Zarle, Shanklin. NAY: Haywood, Wells, Hanna, Drewry, Burk. MOTION FAILED.

VOTE ON ORIGINAL MOTION: AYE: Wells, Hanna, Drewry, Burk, Shanklin, Haywood. NAY: Zarle. MOTION CARRIED.

22. Consider approving the use of police unclaimed property fund/miscellaneous revenue to complete the initial

City Administration move to the New City Hall building. Exhibits:
Preliminary budget estimate for moving Administration to new office building.

Mitchell stated \$130,000 has been generated by the Police Department and he is requesting that money be used for the initial move which will include moving Human Resources, Mayor and City Council, Neighborhood Services, City Manager and City Clerk into the south wing of building. He stated \$70,000 will be used for technology and communications for the building, \$20,000 for conference room and miscellaneous furniture, and the additional janitorial services and miscellaneous costs. He stated the cost really depends on when the move is made. He stated if they do not use the entire \$130,000 they will bring it back to the City Council for consideration or they will put it back into the general fund.

Wells questioned if there was any way they could go back to the architect or engineer who failed to put in the telecommunications lines.

Mitchell stated this is for running cable from the current city hall to the building.

Wells stated he hates to use police department funds. He stated this year s budget increased by \$6 million, surely staff can find \$130,000 to take care of the move.

Mitchell stated the budget is very close and there are other issues they are going to have to address. He stated he is hoping to get some miscellaneous donations from other sources.

Hanna questioned if there was any way to put it in the budget so that the police department can recoup their money back.

Chief Ronnie Smith, Lawton Police Department, stated this money has been accumulating since 1982. He stated he feels this is going for a good cause and he feels this is what it needs to be used for.

MOVED by Drewry, SECOND by Burk, to approve the use of police unclaimed property fund/miscellaneous revenue of \$130,000 to complete the initial City Administration move to the new City Hall building. AYE: Hanna, Drewry, Burk, Shanklin, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

23. Consider ratifying the actions of City Staff and declare an emergency to permit waiving the competitive bidding process and authorize specific funds and staff to continue with plans and purchases necessary for managing the tree and limb clean up operations from the January 28, 2010 through January 30, 2010 Ice Storm. Exhibits: None.

Ihler stated two weeks ago the City Council authorized staff to proceed with some actions as a result of the January 28th ice storm. The sites have been set up to take limbs to the east side park and south of the landfill. They have begun burning at the landfill site. They have not been able to work on the site at 67th and Rogers Lane because of the weather. Crews have started picking up limbs in neighborhoods on the east side and south central. A contractor has been hired to put up the fencing around those sites and he anticipates he will be completed with all three sites by the end of next week.

He stated staff is requesting the City Council waive the competitive bidding which includes the twenty days for advertising. They did receive competitive bids and did contact five contractors. They are asking that the contract be awarded to the lowest responsive bidder. They have purchased the two air curtains and one has arrived and they started burning yesterday. He stated they are also requesting that staff purchase a tub grinder. He stated there is a tremendous amount of tree limbs at the landfill and as they submit this information to FEMA, any equipment that they use, they can get paid an hourly rate if this storm is approved by the Governor and the President. If this storm does receive FEMA funding, we can receive \$275 per hour for the operation of the tub grinder. That is a piece of equipment the landfill should have had for a long period of time. He feels that just from this storm, they can get approximately \$200,000 paid if they get the funding from FEMA. He stated they could receive \$105 per hour on the air curtains and that should more than pay for those.

Shanklin questioned if they feel the area will be declared a disaster by FEMA.

Mayor Purcell stated the Governor has part of it declared and he is going back for an additional request. We have certainly met the dollar threshold to be reimbursed.

Drewry questioned how long it would take to get the tub grinder.

Ihler stated the contractor who is on the state contract can have it here by the end of the week.

Mitchell stated we did receive money today from the 2007 storm, so sometimes it takes a while to get those funds reimbursed.

Ihler stated they will defer two pieces of equipment out of this year s capital outlay. The equipment from the Fire

Department and Street Division will be placed in the budget for next year or when the FEMA funds arrive.

Wells questioned if the Fire Department had gone out for bids on this piece of equipment.

Chief Bart Hadley, Lawton Fire Department, stated no. He stated even if they did go out for bid it would not be delivered until after the next budget year.

MOVED by Burk, SECOND by Hanna, to ratify the actions of City Staff and declare an emergency to permit waiving the competitive bidding process and authorize specific funds and staff to continue with plans and purchases necessary for managing the tree and limb clean up operations from the January 28, 2010 through January 30, 2010 Ice Storm. AYE: Hanna, Drewry, Burk, Shanklin, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

24. Consider approving an ordinance amending Division 17-1-6-163, Division 17-1-6, Article 17-1, Chapter 17, Lawton City Code, 2005, by amending the benefit of on-the-job injury leave (full salary) to 56 hours at the beginning of lost time until temporary total disability benefits are available and stating how employees who have been released to work with permanent disabilities and cannot perform the essential functions of the job will be paid providing for severability and establishing an effective date of April 1, 2010. Exhibits: Ordinance 2010-__.

Trisha Thomason, Human Resources Director, stated this will change two items in the code regarding workers compensation. One is to equal the benefits that is currently in the AFSCME contract to make it even for the non-union employees and that would be the change to the 56 hours of on the job injury leave whereas today it reads 26 weeks. The other change is to correct part of the code regarding when someone returns to work on permanent disability, they would be returned to on the job injury leave rather than put on temporary total disability, as they are no longer rated with a temporary disability at that point.

MOVED by Drewry, SECOND by Burk, to adopt **Ordinance 10-06**, waive the reading of the ordinance, read the title only and establishing an effective date of April 1, 2010. AYE: Haywood, Hanna, Drewry, Burk, Shanklin, Zarle. NAY: None. ABSENT: Wells. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 10-06

An ordinance pertaining to personnel polices and procedures amending Section 17-1-6-163, Division 17-1-6, Article 17-1, Chapter 17, Lawton City Code, 2005, by amending the benefit of on the job injury leave (full salary) to 56 work hours at the beginning of lost time until temporary total disability benefits are available and stating how employees who have been released to work with permanent disabilities and cannot perform the essential functions of the job will be paid, providing for severability and establishing an effective date.

25. Consider an ordinance amending Section 5-1-115, Article 5-1, Chapter 5, Lawton City Code, 2005, by replacing the subsection incorporating the definition of confinement found in Section 5-101 from (A)(7), to the correct subsection (A)(12), and declaring an emergency. Exhibits: Ordinance 2010-__.

Jensen stated this is just a clean up measure and there was a reference to the wrong subsection. This ordinance will correct that clerical error.

Zarle questioned why this had to be an emergency.

Jensen stated the confinement of animals is an emergency.

MOVED by Drewry, SECOND by Hanna, to adopt **Ordinance 10-07**, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Hanna, Drewry, Burk, Shanklin, Haywood. NAY: Zarle. ABSENT: Wells. MOTION CARRIED. EMERGENCY FAILED.

(Title read by City Attorney)

Ordinance 10-07

An ordinance amending Section 5-1-115, Article 5-1, Chapter 5, Lawton City Code, 2005, by replacing the subsection incorporating the definition of confinement found in section 5-101 from (a)(7), to the correct subsection (a)(12), and declaring an emergency.

MOVED by Zarle, SECOND by Hanna, to reconsider item #25. AYE: Hanna, Drewry, Burk, Shanklin, Zarle, Haywood. NAY: None. ABSENT: Wells. MOTION CARRIED. EMERGENCY FAILED.

MOVED by Zarle, SECOND by Burk to adopt **Ordinance 10-07**, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Hanna, Drewry, Burk, Shanklin, Zarle, Haywood. NAY: None. ABSENT: Wells. MOTION CARRIED. EMERGENCY PASSED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Haywood stated there are people who are dropping limbs on the way to the landfill. He questioned if there was still a fine of \$750.

Mitchell stated yes.

Drewry requested that people not place their tree branches in areas where children are picked up by school buses. She stated she has been asked who is responsible if there is any damage in the easement. She wanted to clarify that if something is in the easement the homeowner needs to clean it up and they are responsible for any damage.

Hanna stated it has been a pleasure to serve on the council and he thanked his constituents and staff.

Mayor Purcell presented a plaque to Councilmember Hanna for his service.

Mayor Purcell announced the swearing in ceremony will be Monday, March 1, 2010 at 9:00 a.m.

Mitchell presented a plaque to Mayor Purcell for his service. He presented the Mayor with a proclamation declaring Friday, February 26, 2010 as John P. Purcell, Jr. Day in the city of Lawton. He stated an open house will be conducted that day at the new city hall.

The Mayor and Council convened in executive session at 8:32 p.m. and reconvened in regular, open session at 9:18 p.m. Roll call reflected all members present excluding Shanklin.

BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

Wells stated he received the Oklahoma Municipal League legislative summary and there is a bill regarding citizen petitions and right now there is a time limit on when they can file the petition. The proposed bill takes the time limit off. He requested the City Manager write a letter to our local legislators opposing the change.

Mitchell stated he would check on the issue.

26. 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.

Jensen read the title of item 26.

MOVED by Haywood, SECOND by Hanna, to approve a joint resolution (**Res. 10-21**) by the City of Lawton and the Lawton Fort Sill Chamber of Commerce to support and authorize funding assistance for land acquisition and infrastructure extensions for economic development prospects in the amount not to exceed \$400,000.00 and authorize the City Attorney to prepare a contract for the funding assistance out of hotel/motel tax funds earmarked for that purpose which would be returned to the City Council for consideration on March 9, 2010. AYE: Hanna, Drewry, Burk, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

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 2010-2011 between the Fire Union, IAFF, Local 1882, and the City of Lawton, and take appropriate action in open session. Exhibits: None.

Jensen read the title of item 27.

MOVED by Wells, SECOND by Hanna, to appoint the following individuals as the City's negotiating team: Trisha Thomason, Chief Negotiator, Tim Wilson, member, Dwain Burk, member, and Kelea Fisher and Jim Russell as alternates. AYE: Hanna, Drewry, Burk, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

28. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to review the employment of Traci L. Hushbeck as City Clerk, and in open session take other action as necessary. Exhibits: Employment Agreement Summary. Amendment to Agreement on file in the City Clerk's Office.

Mayor Purcell read the title of item 28. He stated the Council felt she was doing an outstanding job.

MOVED by Hanna, SECOND by Haywood, to approve an employment agreement with Traci Hushbeck with everything remaining the same with a salary for the next year of \$63,000. AYE: Drewry, Burk, Zarle, Haywood, Wells, Hanna. NAY: None. MOTION CARRIED.

There being no further business to consider, the meeting adjourned at 9:24 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