

Meeting of 2010-3-9 Regular Meeting

MINUTES  
LAWTON CITY COUNCIL REGULAR MEETING  
MARCH 9, 2010 6:00 P.M.  
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

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

Mayor Fitch 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 Father Kirk Larkin, Holy Family Catholic Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:                      Bill Shoemate, Ward One  
Michael Tennis, 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:                      None

PROCLAMATION FOR VIETNAM VETERANS AWARENESS DAY

Mayor Fitch proclaimed March 18, 2010 as Vietnam Veterans Awareness Day and presented the proclamation to members of the Vietnam Veterans of America, Inc., Lawton Chapter.

The public was invited to a ceremony featuring the traveling wall on March 19th at 10:00 a.m. at Elmer Thomas Park.

CONDUCT ELECTION OF MAYOR PRO TEM

Mayor Fitch stated Councilmember Wells has done an excellent job for the past year. He stated it is now the standard customary duty at this time to appoint another Mayor Pro Tem.

Shanklin questioned if Councilmember Wells could succeed himself.

Jensen stated Councilmember Wells could serve again if he was nominated.

MOVED by Shanklin, SECOND by Tennis, to elect Doug Wells as Mayor Pro Tem.

SUBSTITUTE MOTION by Drewry, SECOND by Shoemate, to elect Jay Burk as Mayor Pro Tem. AYE: Shoemate, Tennis, Drewry, Burk, Fitch. NAY: Haywood, Wells, Shanklin, Zarle. MOTION CARRIED.

AUDIENCE PARTICIPATION:

Andrea Decker, 2720 SW J Avenue, stated she recently turned in her application for the Sentinel program. She stated she was surprised to find the Lawton Police Department has three shifts and there are only twelve officers per shift and that is why they have the Sentinel program to take care of the minor problems that arise. She requested that the City Council look at funding additional police officers.

S. K. Edgemon, stated she lives in the Fields and Dunning area and there are many streets in the community that

have been in need of repair or replacement. She questioned if the City Council will keep up with the street projects in the various wards and the entire community.

Mitchell stated yes, the City Council was very proactive in the 2008 CIP program in setting aside dollars for each ward. He hopes they will do the same thing for the 2012 CIP program. It is an excellent idea that they need to promote and continue.

Ms. Edgemon stated that as a result of the bad weather they have seen additional damage to the streets, especially on Ferris.

Mayor Fitch stated this issue will continue to be a major concern for the Council and their wards. This issue will be discussed during the budget process.

Shanklin questioned when crews were going to get to the potholes.

Mitchell stated you have to have temperatures over 40 degrees and the moisture needs to be off the streets.

Shanklin questioned if they can dry the holes with a torch.

Jerry Ihler, Public Works Director, stated it is not practical to use a torch for all of the potholes they have.

Burk stated most of the crews are working on debris removal.

Ihler stated that is true, but they still have the pothole patch truck going around with a crew.

Shanklin questioned if he could be allowed to come get a five gallon bucket of asphalt and fill in those potholes on Ferris.

Ihler stated he could not recommend a private citizen going out and working on a public street.

Jensen stated he would not recommend it.

Glenn Girone, 211 NW 74<sup>th</sup> Street, stated he had to retrieve his dog from the Animal Control Division three weeks ago. He stated he received a summons for a fine of dogs and cats running at large. He stated he called the number on the letter and he was told that as soon as you walk out the door with your animal, they send a summons up to fine you. He stated there should be a way to let you know upfront that this will come. He stated he will go to court on Thursday and pay his fine, but he has seen the City get more adversarial with residents regarding policies. He wished he would have been notified that he would be receiving a letter notifying him that he would be a defendant. They need to be upfront and look at policies in a friendlier way. Citizens want to be responsible, but there are responsibilities on both parts and it is amicable between the two groups.

Drewry questioned if Mr. Girone paid the fine when he picked up his animal.

Mr. Girone stated there were fees that he paid. He could not get his dog without paying these fees.

Shanklin questioned the amount of the fine.

Mr. Girone stated he though the fees were \$47.

Jensen stated the fees are impound fees, they don't have anything to do with the citation for animals running at large.

Mr. Girone stated when his dog was picked up the dog had her tags on with his vet's information. He questioned why the animal control officer could not have just notified his vet which would have gotten his dog back before the president's day weekend. He stated his vet told him that animal control does call sometimes. He questioned why this wasn't a policy.

Wells stated it seems to him that we want people to pick up their dogs.

Mitchell thanked Mr. Girone for bringing this to his attention. He will have to look at the procedure.

Wells stated he feels they do not need to be charging people who are honest enough to go down and pick up their animals.

Mitchell stated he will check into it.

Mayor Fitch questioned if they are fined the very first time the animal is picked up.

Jensen stated they have discretion on whether or not to issue a citation, but they can issue a citation on the first offense. He stated there is a serious problem with animals running at large in the city limits and that is why we enforce the rules.

Mayor Fitch stated the City Manager will look into this process.

Tenis stated if you told the people upfront that they will receive a citation, there may be a chance that they don't even come to pick up their pet.

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.

Requests were made to consider items #2, #3, #4, #5, #6 and #8 separately.

MOVED by Drewry, SECOND by Burk, to approve the consent agenda with the exception of items #2, #3, #4, #5, #6 and #8. AYE: Wells, Shoemate, Tennis, Drewry, Burk, Shanklin, Zarle, Haywood. NAY: None. MOTION CARRIED.

1. Consider the following damage claim recommended for approval and consider passage of the resolution authorizing the City Attorney to file a friendly suit for the claim which is over \$400.00: Jason and Angela Busse in the amount of \$912.82 (**Res. 10-22**). Exhibits: Legal Opinion/Recommendation and Resolution No. \_\_\_\_.

2. Consider the following damage claims recommended for denial: Frank D. Roach Sr. in the amount of \$3,500.00, Southwestern Bell Telephone, DBA AT&T Oklahoma in the amount of \$203.28, Carl and Angelina Fuqua in the amount of \$250.00 and Joshua and Christina Blum in the amount of \$14,610.69. Exhibits: Legal Opinions/Recommendations.

Joshua Blum, 508 SW 26<sup>th</sup> Street, stated he went to the City Attorneys office and looked at the information which led to the recommendation of denial. Staff said the account was not closed properly until September 23<sup>rd</sup> and they made an argument that some water was used from the time he originally said the account was closed. He stated his tenant remained in possession of the keys until the time that she turned the water off herself on September 23<sup>rd</sup>. He also has a leave form to show that he was out of town at the time that the City went out and inspected the water meter to make sure it was turned off on September 24<sup>th</sup>. He stated he has a field sheet that says the City went out and locked the meter on September 24<sup>th</sup>. If they locked the meter, how did 6,000 of water come through that meter in December and flood his house.

Kelea Fisher, Assistant City Attorney, stated Mr. Bloom's rental was vacant, according to their records, as of August 17, 2009. From August 17<sup>th</sup> through September 24<sup>th</sup> there was substantial water usage to the amount of 6,000 gallons. She stated James Breedlove, Revenue Services, went to the house on September 24<sup>th</sup>, after the renter properly closed the account, and noted that the house was vacant and the meter was already in the off position, which indicated that someone had already turned it off prior to the account being closed. After that time there was no usage in October and in November there were three instances where there was water usage. On December 11<sup>th</sup>, the pipes burst and caused substantial damage. She stated the City of Lawton is not negligent and they did turn off the account. Someone was turning the water on and off for their own usage.

Shoemate stated he went out and looked at the meter and he questioned if valves could be messed up.

James Breedlove, Revenue Services, stated they had photos of the valves and they are showing it is off.

Fisher stated there was no city employee out there turning the valve on and off.

Jensen stated when the account was properly closed in September, our employee went out there and the meter was already off. We were done with that account until someone came back in to reactivate that account. In the meantime there was water usage.

Mr. Blum stated the paperwork from the City Attorney's office stated the meter was locked. He stated it was never locked.

Breedlove stated the office manager put that it was locked, he did not put that down. When he went out there the meter was already turned off.

Shanklin questioned why we do not put a lock on the meter when we turn it off.

Breedlove stated he only locks those that are stealing water, forced final or for people who are delinquent.

Wells questioned why it wasn't locked when they saw usage on an account that was closed.

Breedlove stated they did not know there was usage.

Wells stated staff receives a report every month that shows what meters have usage.

Fisher stated at that point a bill had gone out to the prior tenant.

Wells stated he was talking about later on. They would have received an error report that would have said there was usage for an inactive account.

Fisher stated Mr. Blum called his realtor and the realtor was attempting to turn it off at the time Mr. Breedlove arrived to properly turn it off again.

Breedlove stated the valve was already turned off when he went to the residence. He stated he is guessing the home was not winterized so if the pipes were not drained, they are going to bust. He stated someone turned the water on and off.

Shoemate stated if the faucets are open, there will not be water in those lines.

Burk stated there could still be water in those lines and it could cause this.

Haywood questioned why we don't pull the meters anymore.

Breedlove stated with the new meter system there is a lot of paperwork involved and if they pull the meters it would take a lot of work to put the information back in the system. Unless someone keeps breaking the locks off and stealing water, then they will pull the meter.

Shanklin questioned if they can lock them.

Breedlove stated they use plastic pin locks. He stated if someone wants water, they can break the lock off.

Tenis stated the locks would protect the City and this amount of money can buy a lot of locks.

MOVED by Burk, SECOND by Zarle, to approve the damage claim of Joshua and Christina Blum in the amount of \$14,610.69 (**Resolution 10-23**). AYE: Shoemate, Tennis, Drewry, Burk, Shanklin, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

MOVED by Burk, SECOND by Shoemate, to deny the damage claims of Frank D. Roach Sr. in the amount of \$3,500.00, Southwestern Bell Telephone, DBA AT&T Oklahoma in the amount of \$203.28, Carl and Angelina Fuqua in the amount of \$250.00. AYE: Tennis, Drewry, Burk, Shanklin, Zarle, Haywood, Wells, Shoemate. NAY: None. MOTION CARRIED.

3. Consider waiving Council Policy 8-1, Engineering and Architectural Policy, and approve an agreement with Meyer Architecture Plus, L.L.C. to provide architectural services for Phase IV of the Central Junior High School Restoration project and authorize the Mayor and City Clerk to execute the agreement. Exhibits: Letter from Meyer Architecture dated March 1, 2010 and Council Policy 8-1. Draft Agreement on file in the City Clerks Office.

Zarle questioned if this had been done before.

Mitchell stated the policy was waived when Meyer Architect was hired to do Phase II because they had originally been hired by Lawton Public Schools for Phase I. Meyer Architect has done all of the plans for this project and staff is recommending that we use them for Phase IV. They believe they can save approximately \$250,000.

Zarle stated they are going to spend \$160,000 to save that.

Mitchell stated they need Meyer Architect to put together the plans and specifications together so they can bid the project out. Otherwise they would be hiring another architectural firm which would cost approximately \$400,000.

Shanklin questioned if there was a construction manager on the job that represents the City of Lawton.

Mitchell stated no.

Zarle stated he does not know why we are wasting all of this money when our people have to go out and redo the same thing they have done.

Mitchell stated they have to put the plans and bid specifications together so contractors can bid the work. Once the contractor is hired, the inspectors go out and inspect the work that is being done by the contractor along with the architect.

MOVED by Zarle, SECOND by Haywood, to waive Council Policy 8-1 and approve an agreement with Meyer Architecture Plus, L.L.C. to provide architectural services for Phase IV of the Central Junior High School Restoration project and authorize the Mayor and City Clerk to execute the agreement. AYE: Drewry, Burk, Shanklin, Zarle, Haywood, Wells, Shoemate, Tennis. NAY: None. MOTION CARRIED.

4. Consider approving the record plat for Oak Ridge Addition, Part 1B and accepting the improvements, maintenance bond, and money in lieu of park land dedication. Exhibits: Plat Map. Maintenance Bonds on file in City Clerk s Office.

MOVED by Burk, SECOND by Zarle, to approve the record plat for Oak Ridge Addition, Part 1B and accept the improvements, maintenance bond, and money in lieu of park land dedication AYE: Burk, Shanklin, Zarle, Haywood, Wells, Shoemate, Tennis, Drewry. NAY: None. MOTION CARRIED.

5. Consider entering into a Lease-Purchase Agreement with Brentwood Development, Inc., for water main located on the north side of SW Bishop Road, east and SW 67th Street. Exhibits: Location map. Lease-Purchase Agreement on file in City Clerk s Office.

Wells requested staff put the amount of the lease purchase agreement in the commentary.

Richard Rogalski, Planning Director, stated the amount of the agreement is \$56,703.

Wells stated he thought it was \$200,000.

Rogalski stated that is the cost of construction for that section of water line. The only thing the lease purchase covers is the middle section which is the 12-inch water main.

Wells stated that just for clarification, a developer can pay to have the utilities ran to that land and with a lease purchase agreement, as other people tap on, the developer can be reimbursed for the cost of that line through the impact fees.

Rogalski stated yes. Only the fees that are collected in that area are reimbursed to the developer. They are not guaranteed the full amount.

Wells questioned if the developer had to pay the impact fees when he connects into it.

Rogalski stated most often developers sell the lots to other builders who will pay the impact fees and those impact fees will go back to the developer.

MOVED by Wells, SECOND by Haywood, to approve items #5 and #6. AYE: Shanklin, Zarle, Haywood, Wells, Shoemate, Tennis, Drewry, Burk. NAY: None. MOTION CARRIED.

6. Consider entering into a Lease-Purchase Agreement with T & G Construction, Inc., for approximately 950 linear feet of 12 inch diameter waterline located at SE H Avenue and SE Interstate Drive in the SW/4, SE/4, of Section 32, T2N, R11W, I.M., Comanche County Oklahoma. Exhibits: Location map. Lease-Purchase Agreement on file in City Clerk s Office.

7. Consider accepting an 8-inch waterline to serve Lawton Place Apartments at 7301 SW Lee Boulevard, maintenance bond, two public utility easements, and a sidewalk easement. Exhibits: Location Map. Maintenance Bond and Easements on file in City Clerk s Office.

8. Consider renewing a Professional Services Agreement with John Lemmon Films, Inc. for a stormwater education campaign, and authorize the Mayor and City Clerk to execute the document. Exhibits: Professional Services Agreement.

Wells stated again, he would like to see the agreement amount in the commentary. He stated on page two of the contract under fees it says that the total cost shall not exceed three thousand three fifty one, but it says (\$3,051.00) after that statement.

Ihler stated the amount should be \$3,051.00.

MOVED by Wells, SECOND by Drewry, to renew the amended Professional Services Agreement with John Lemmon Films, Inc. for a stormwater education campaign, and authorize the Mayor and City Clerk to execute the document. AYE: Zarle, Haywood, Wells, Shoemate, Tennis, Drewry, Burk, Shanklin. NAY: None. MOTION CARRIED.

9. Consider denying the requests for traffic control measures on NW 38<sup>th</sup> Street for northbound and southbound directions between NW 40<sup>th</sup> Street and NW Santa Fe Avenue. Exhibits: Traffic Commission Minutes and Traffic Issue Request.

10. Consider approving an amendment to the City's Business Associate Agreement (BAA) with Higginbotham & Associates, Inc. to incorporate into said agreement new security requirements mandated by the Health Insurance Portability and Accountability Act (HIPAA) and the Health Information Technology Economic and Clinical Health (HITECH) Act. Exhibits: Amendment to Business Associate Agreement.

11. Consider awarding (CL10-031) Custom Wraparound Bleacher Cover Structure to Terra Pad Tulsa, OK. Exhibits: Department recommendation, abstract of bids.

12. Consider extending the contract (CL08-043) Alternate Daily Cover (ADC) to Landfill Services Corporation of Appalachian, NY. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.

13. Consider awarding (CL10-023) Water Line Fittings & Valves to Water Products of Oklahoma of Owasso, OK. Exhibits: Department recommendation, abstract of bids.

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

#### **Mayor's Commission On The Status Of Women**

Angela Ezell  
Ward 8  
6124 SW Oak Cliff Avenue  
Lawton, Oklahoma 73505  
03/23/12

#### **Lakes and Land Commission**

Blake Dutcher  
802 SW C Avenue  
Lawton, Oklahoma 73501  
Unexpired Term 12/07/10

#### **Waurika Master Conservancy District Board**

John Mackey  
312 NW Ridgeview Way  
Lawton Oklahoma 73505  
02/06/14

15. Consider approval of payroll for the period of February 22 March 7, 2010.

#### **OLD BUSINESS ITEMS:**

16. Consider approving an ordinance granting to Public Service Company of Oklahoma, an Oklahoma Corporation, its 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 this is the franchise ordinance discussed at the last couple of meetings. They tabled the ordinance several times as staff continued to negotiate with PSO representatives. He stated it is finally ready for approval by the City Council.

MOVED by Haywood, SECOND by Drewry, to adopt **Ordinance 10-08**, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Haywood, Wells, Shoemate, Tennis, Drewry, Burk, Shanklin, Zarle. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 10-08

An ordinance granting to Public Service Company of Oklahoma, an Oklahoma corporation, its 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; providing for assignment; granting right to operate business with reasonable rules; whereby Public Service Company of Oklahoma agrees to maintain electric service pursuant to Oklahoma Corporation Commission regulation and agrees to indemnify the city in certain situations; whereby Public Service Company of Oklahoma is given a continuing right to operate within the city's limits and is authorized to allow those properly permitted to attach facilities to its poles; whereby Public Service Company of Oklahoma agrees to charge legal rates for such service and to sell and deliver to the city all electricity and services requested by it to the extent commercially practical and permitted under applicable law; providing for payment to the city by Public Service Company of Oklahoma of a monthly fee on gross receipts from delivery and the sale of electricity; calling for an election and providing for acceptance; providing for repeal of the existing franchise ordinance; providing for severability; and declaring an emergency.

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. 10-08 of the City, more particularly described as an ordinance granting to Public Service Company of Oklahoma, an Oklahoma Corporation, its 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.

Jensen stated this resolution is required to officially call the special election which will be paid for by PSO. The election will be held on May 11, 2010. Documents will be taken to the election board tomorrow.

MOVED by Haywood, SECOND by Burk, to adopt **Resolution 10-24** authorizing the calling and holding of a special election in the City of Lawton for the purpose of submitting to the registered qualified electors of said City the question of approval or rejection of Ordinance No. 10-08. AYE: Wells, Shoemate, Tennis, Drewry, Burk, Shanklin, Zarle, Haywood. NAY: None. MOTION CARRIED.

#### NEW BUSINESS ITEMS:

Shanklin stated the City Council paid Mr. Blum \$14,610.69 for a claim on item #2. He stated there is no paperwork of any kind that substantiates that amount. He stated they should not give him this amount if they cannot verify it.

Mitchell stated Mr. Blum provided two estimates.

Shanklin questioned how they can delay this.

Jensen stated Mr. Blum did provide documentation in support of his claim. He stated he would like to go back and take another look at the claim.

Shanklin stated he would like to pay Mr. Blum, but not \$14,000 if the amount is actually lower.

Jensen stated staff will look at the claim to see if it needs to come back to the City Council.

Haywood stated they need to contact Mr. Blum if they bring it back.

Burk stated they used to have invoices on claim.

Jensen stated they stopped including that because the volume of the files could get very big. He stated they will start including this if the Council wishes.

18. Hold a public hearing and consider an ordinance changing the zoning from R-4 (High Density Apartment District) to C-5 (General Commercial District) zoning classification located at 2705 NW Sheridan Road. Exhibits: Ordinance No. 10-\_\_\_\_, Location Map, Site Plan, Application, CPC Minutes and Section 16-4-2-424 Prohibited Noises.

Rogalski stated this request is for a tract measuring 120 feet by 170 feet in Block 12, Military Addition, No. 2. The proposed use is a bar and grill as an addition to the existing business, Gate 4 Recovery Room. The applicant is Micha Trent. The zoning of the surrounding area is R-4 and C-5 to the north and south, R-4 and R-1 (Single-Family

Dwelling District) to the east, and C-5 to the west. The land use of the surrounding area is apartments and commercial to the north and south, vacant and single-family residential to the east and commercial to the west.

The 2030 Land Use Plan designates this block as Commercial. There are existing commercial businesses along Sheridan Road on property also owned by the applicant. Gate 4 Recovery Room is located east of those businesses. The applicant proposes to expand the existing club and add a grill. The proposed rezoning does not extend to NW 20<sup>th</sup> Street; therefore, the R-4 zoning would act as a buffer between the C-5 and the R-1 district east of NW 20<sup>th</sup> Street.

On January 28 and February 11, 2010, the City Planning Commission held a public hearing and considered this request. On January 28 the CPC continued the public hearing and requested the applicant attend the February 11 meeting to answer questions raised by an abutting property owner and the Commission regarding noise from the proposed deck, ingress and egress, and stormwater drainage. Section 16-4-2-424, Prohibited Noises Enumerated, was provided to the CPC at the February 11 meeting and is attached. The CPC, by a vote of 7 0, recommended approval of the rezoning subject to the following conditions:

1. Amend the site plan to provide opaque screening not less than 6 feet or more than 8 feet high from the R-4 district to the east and an 8-foot opaque screening on the south side of the property.
2. Add the proposed use of bar and grill on the site plan.
3. Amend the site plan to include a sound barrier of not less than 6 feet or more than 8 feet high on the south side of the deck.
4. Stipulate on the site plan that there will be no live music permitted on the deck.
5. Obtain a revocable permit for parking and maneuvering on the easement located on the northern boundary of the tract.

Subsequent to the CPC public hearing, the property owner to the north of the requested area visited the Planning Division and expressed concern of Gate 4 Recovery Room customers parking on his property and driving into and damaging his fence when they park at the club as this has been an ongoing problem. He requested a fence be required along his property line to prevent access to his property from Gate 4 Recovery Room. Upon review of the situation Staff felt, as a minimum, parking blocks should be required for the parking spaces adjacent to the north property line to prevent vehicles overhanging into the adjacent property. Staff recommends installation of a fence and parking blocks along the northern parking spaces be added as a condition to approve the rezoning request.

If this request is approved, the site plan will be part of the ordinance, and development must be in accordance with the site plan.

Notice of public hearing was mailed on February 17, 2010 to 32 property owners within 300 feet of the requested area, and notice was published in *The Lawton Constitution* on February 21, 2010.

Haywood questioned what ward this is in.

Rogalski stated ward two.

PUBLIC HEARING OPENED.

Jeff Sadler, 40 NW 36<sup>th</sup> Street, stated he represents the housing to the south, which is 27 apartments. He has a problem with the noise factor. It would be very uncomfortable to have a party deck fifty feet away. What goes on inside is not an issue, but the issue is this 2400 square foot deck. He stated the required sound barrier would push all of the noise to the northeast where there is housing all around. He stated one stipulation is that there is no live music. You can play 100 decibels out of speakers and it makes no difference if it is live or not. He knows there is a noise ordinance, but this is too much of an issue. He has no problem with the expansion of the club, but he objects to what will go on outside.

John Tubbs, owner of the building just north of the property, stated people park in front on his building. He stated he would request that the fence be extended farther towards Sheridan Road so it would make it more difficult to park in front of his building. He has no problem with the rezoning, but he would like to make this fence issue part of the requirement for the rezoning.

Steve Rich, developer of the proposed addition, stated he hopes they can come up with a solution that will make everyone happy. He stated the original site plan has been a work in progress. He stated they have evolved to the sound wall and the eight foot opaque fence, extension of the fencing on the north side and no outside music. He feels they are doing everything they can before the set anything in stone.

Shoemate questioned if there would be a fence on the east side of the parking lot.

Mr. Rich stated yes. That will still be zoned R-4 so opaque fencing is required between the commercial and residential zoning. He stated at the CPC meeting they agreed to put in an eight foot fence instead of a six foot fence.



Tenis stated he would like them to get rid of the deck and extend the fencing next to Mr. Tubbs property.

Mr. Rich stated he feels that extending the fence is a bad idea. This will just create a huge alcove and there will be a visibility issue.

Tenis stated this is an expansion of a business that is encroaching on other people's property lines.

Burk stated his business is in this ward. This is a busy neighborhood. He stated they need to do something to develop this area. He stated he agrees with the eight foot fence and the bar will be held accountable for the noise level in that area. They are trying to be proactive. Their building is nice and he supports what they are doing.

Mr. Rich stated the noise ordinance is the key issue. He does not feel they will suppress the problem by not allowing them to develop this area. They are willing to cut the deck back to half the current size which will make it 1,200 square feet. They feel the outside seasonal seating is important to their core business.

Burk stated this will allow them to go outside and have cookouts. He feels this will help all of their property values.

Tenis stated he has no problem with it if there is no deck or if there is absolutely no music.

Drewry stated she likes the outdoor deck where people can sit outside and eat.

Tenis stated they have to protect the rights of the people who are living there.

PUBLIC HEARING CLOSED.

Wells questioned how many citizens responded to the notice of rezoning.

Rogalski stated they only received two negative responses from Mr. Sadler and Mr. Tubbs.

MOVED by Drewry, SECOND by Burk, to adopt **Ordinance 10-09**, with all of the recommendations from the CPC and the two additional recommendations from staff which includes park blocks and additional fencing, waive the reading of the ordinance, read the title only.

SUBSTITUTE MOTION by Tenis, SECOND by Shoemate, to adopt **Ordinance 10-09**, with all of the recommendations from the CPC and the two additional recommendations from staff, but no music be allowed on the outside deck. AYE: Tenis, Shanklin, Wells, Shoemate. NAY: Drewry, Burk. ABSTAIN: Zarle, Haywood. MOTION FAILED.

VOTE ON ORIGINAL MOTION: AYE: Drewry, Burk. NAY: Shoemate, Tenis, Shanklin, Zarle, Wells. ABSTAIN: Haywood. MOTION FAILED

Drewry stated now the zoning will not be changed, so they cannot do anything.

Burk questioned if they really wanted to tell them that they could not build a building.

Tenis stated he wants them to be responsible neighbors.

Jensen stated right now there is no zoning change. The only thing that can be done tonight is a motion to reconsider or staff can bring it back and suspend the rules.

Drewry stated this is a huge improvement to that property.

MOVED by Burk, SECOND by Drewry, to reconsider item #18. AYE: Drewry, Burk, Haywood, Tenis, Fitch. NAY: Shanklin, Zarle, Wells, Shoemate. MOTION CARRIED.

Burk stated he would like to go with Councilmember Tenis' recommendation that no outside music be allowed on the outside deck.

MOVED by Burk, SECOND by Drewry, to adopt **Ordinance 10-09**, with all of the recommendations from the CPC and the two additional recommendations from staff, but no music be allowed on the outside deck, waive the reading of the ordinance, read the title only. AYE: Burk, Zarle, Haywood, Wells, Shoemate, Tenis, Drewry. NAY: Shanklin. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 10-09

An ordinance changing the zoning classification from the existing classification of R-4 (High Density Apartment

District) to C-5 (General 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.

19. Consider endorsing the Lawton Bike Plan Route Analysis and Feasibility Study. Exhibits: Lawton Bike Plan Route Analysis and Feasibility Study (sent separately).

Rogalski stated in June 2008 the Lawton Metropolitan Area Bicycle and Pedestrian Plan was adopted. Approval of the analysis will have to be processed as an amendment to the adopted Bicycle and Pedestrian Plan, which is an element of the 2030 Long Range Transportation Plan. As the plan was prepared there were three public workshops and three public hearings to adopt the plan. The Bike Plan Route Analysis provides additional direction and detail for the first nine routes to be constructed in preparation for the design and construction of Phase 2 of the Transportation Enhancement Grant. Most of the routes will be put on locals streets with shared bike lanes.

This is the least expensive way to develop bike lanes. The City of Lawton applied for a transportation enhancement grant from ODOT and was awarded a grant. The first step was to look at the concerns with the routes. A consultant was hired and they put together this analysis of the first nine routes. The analysis recommends including a conversion of Ferris Avenue between NW Fort Sill Boulevard and NW Sheridan Road from 4 travel lanes to 2 travel lanes with a center left-turn lane and 2 striped bike lanes and small amendments and postponements of certain segments of routes as well as reprioritizing Routes 4 and 5 such that the Fort Sill Connector will be constructed with Phase 2 Transportation Enhancement Grant funding.

Shanklin stated he is concerned because he lives on Ferris.

Rogalski stated the recommendation is that this will not be as much of an impact as it would seem on Ferris with the addition of a turn lane. He stated this is a very tough decision because this will be some decrease in the level of service for cars.

Shoemate questioned what will happen when the bus stops.

Rogalski stated traffic would have to stop behind them.

Tenis questioned what would happen when the trash trucks stop.

Rogalski stated everyone would have to follow behind the trash truck. He stated you will not see a lot of routes on arterials. They are trying to find their way through the community without having to go on major roadways.

Rogalski continued with the presentation outlining the various routes.

Shanklin questioned if there would be any residential parking.

Rogalski stated nothing will change on those streets that currently have residential parking. This will not create no parking zones. Currently bicycles can ride on any of these residential streets, but this is more of a focused awareness on where the route is to get around town.

Shanklin questioned if there are any bike paths in other cities.

Rogalski stated Oklahoma City and Tulsa have extensive bike lanes.

Drewry stated there are bike routes in Norman.

Shanklin questioned the average age of those who be using the bike routes.

Rogalski stated the route may not be a preferred route for all ages.

Mayor Fitch stated that the bike path, as it is planned, is being utilized by riders at this time with no shared lanes or any awareness from drivers that they are sharing this road with a biker. This will put something in place that makes drivers aware that this is a shared artery.

Rogalski stated they were hoping to get all of the routes done with the \$500,000 grant, but unfortunately the estimate came in from this analysis at \$930,000 for the eight routes. This is just the recommendations on the analysis. Prior to any kind of construction the actual design plans will come to this body for approval. This is what they are looking at as being the phase one routes which they actually intend to get designed this spring and hope to start construction by the end of the summer. He stated he does understand there is some concern regarding Ferris, but instead of delaying the whole process, perhaps they can delay that one piece.

Tenis clarified this would be Ferris between Fort Sill Boulevard and Sheridan Road.

Rogalski stated the City Council's recommendation would go to the Lawton Metropolitan Planning Organization and also to the Transportation Technical Committee and Transportation Policy Committee for approval. It is also under review by ODOT and Federal Highways.

Mayor Fitch stated the master plan has been approved by this body.

Rogalski stated the master plan was approved by Council on June 10, 2008. This is an analysis that is modifying it slightly.

Mayor Fitch stated it has to have the Council's blessing before it goes to ODOT and the other committees for approval. He stated they need to advance this so it can come back to the Council for approval. This is not putting anything in stone, but it is just part of the process.

Wells questioned if this is a cost share grant and how much will the city's portion be.

Rogalski stated this is an 80/20 grant and ODOT is providing the \$400,000. The Comanche Nation has provided a \$100,000 match. There is a recommendation currently to use some of the CMAC funding. The City of Lawton currently receives \$150,000 for congestion mitigation air quality funding. We use about half for the air quality awareness campaign and the other half they have been trying to apply to the bike lanes. This analysis was paid for from CMAC funding. They have some additional funding they would like to use to pay for the design. The CMAC funding is matched by the City of Lawton primarily through the staff time that is paid to the transportation planners.

Tenis stated he would like to see more delineation between the bike path and the street other than a white line. That little white line will not mean anything to most people.

Rogalski stated they could put rumble strips or bumps.

Tenis stated there are a lot of teenagers from Lawton High using that road and they drive like maniacs. He stated there is a list of things they need to think about. He is not opposed to the project, but public safety is more important than a bike path.

Lon Parks, Lawton Bicycle Club, stated everyone he has talked with has been in support of the bike paths. He stated this is a very unsafe town and there is the potential for Lawton to have one of the best bicycle path programs in the United States. It will change the city. He stated there are so many programs for surrounding communities that are coming into play.

Shoemate questioned the path on Ferris from 2<sup>nd</sup> Street to Fort Sill Boulevard. This is only two lanes.

Rogalski stated there is a bike path in Elmer Thomas Park. The initial bike plan did not have a route there but the analysis did suggest they look at getting that connectivity from Fort Sill Boulevard to the 6<sup>th</sup> Street Route. The lanes are wide there, so they could do a shared lane or striped lanes or a combination. It would still be one lane in each direction.

Drewry stated she is concerned about those in motorized scooters. She sees them going down the middle of the road and on the side of the road. She questioned if they would be able to use these paths.

Rogalski stated above a certain horsepower they are considered a car, but under a certain horsepower they are considered a bicycle.

Wells stated they are really talking about motorized wheelchairs.

Rogalski stated they are pedestrians, so it would be better if they were on the sidewalks.

Wells stated he hopes that they can get more sidewalks in town.

Rogalski stated if the Council feels this is something they would like to see move forward, they need to endorse the study.

Mayor Fitch stated there are going to be things taken into consideration. They could possibly go south from Ferris.

Rogalski stated the problem is that you always have to get back to the signalized intersection.

Ihler stated he would ask that the design team at least look at the alternative and cost out the alternative of the off street bike connection for the mile on Ferris between Fort Sill Boulevard and Sheridan Road. He stated they are

looking at going from a road capacity in that mile of 22,000 and dropping it to 10,000 with just two lanes. Everyone will look at going to either Cache Road or Gore Boulevard. He stated the third center lane will help.

MOVED by Drewry, SECOND by Tennis, to endorse the Lawton Bike Plan Route Analysis and Feasibility Study. AYE: Shanklin, Zarle, Haywood, Wells, Shoemate, Tennis, Drewry, Burk. NAY: None. MOTION CARRIED.

20. Consider an appeal for a cost sharing agreement per City Council Policy 6-4, for a waterline extension to serve Western Hills Christian Church located at 1401 NW 82<sup>nd</sup> Street. Exhibits: Application and Council Policy 6-4.

Rogalski stated it was determined during the course of the review of the building permit for a proposed expansion of Western Hills Christian Church, located at 1401 NW 82<sup>nd</sup> Street, that a new fire hydrant would be required by the Fire Marshal on the east side of 82<sup>nd</sup> Street. Construction plans for a proposed 8-inch water main extending approximately 86 linear feet, boring across 82<sup>nd</sup> Street were approved by City Council on December 15, 2009. The church has also submitted an application for cost sharing per City Council Policy 6-4. This policy provides a means for the City of Lawton to share the costs for required public fire system improvements when said improvements also benefit existing commercial buildings not owned by the applicant. Staff denied the application as the proposed fire hydrant only provides service to Western Hills Christian Church, and therefore clearly did not meet the requirements of Policy 6-4. The applicant then requested an appeal of this denial to City Council.

Burk questioned the cost of this fire hydrant.

Rogalski stated staff did an estimate of materials which would be approximately \$5,800. There is a steel casing involved and it has to go under the road.

Zarle questioned why they couldn't tie into the same line, chances are they are only going to use one hydrant at a time.

The existing line is on the other side of 82<sup>nd</sup> street and it would cost more to bring that line down.

Zarle stated that one already comes under the road.

Rogalski stated their engineers decided it would cost more to bring that line to the south.

Paul Webb, Western Hills Christian Church, stated the fire hydrant comes from 80<sup>th</sup> Street through the easements and it is only a six inch line. The reason the Fire Marshall is requiring this is because it does not have the flow. That is why he is requiring this extra fire hydrant. He stated there was a survey conducted in 1999 by the City of Lawton to show the need for additional fire hydrants in this area. He stated just for the map seven area, there are seven fire hydrants needed for this area. One of those needed is directly in front of their building. Some of the hydrants on the survey have been installed. He questioned why they should have to pay for the hydrant when it is on the survey to be installed and he questioned why it hasn't been installed since it has been ten years since the survey was done.

Burk questioned the estimated cost to put in the fire hydrant.

Mr. Webb stated the estimate they received from Luckinbill was \$35,000. It has to be bored under 82<sup>nd</sup> Street with a fourteen inch sleeve and an eight inch pipe.

Tennis questioned why they need this fire hydrant.

Chief Bart Hadley, Lawton Fire Department, stated the hydrant is required by code. If there is a fire at the church, the hydrant that is there is on a six inch main and that would not be sufficient with the fire load and the size of the buildings. He stated it is probably not even sufficient for what was currently there.

Wells stated that was a hydrant scheduled to be installed by the City when funds become available.

Chief Hadley stated there was a water study done in 1999 and the City has been progressively putting in fire hydrants and upgrading water lines. This is an ongoing process that depends on the money in the budget for that project.

Zarle questioned if the church was willing to cost share on this project.

Mr. Webb stated they do not want to pay \$35,000 for this hydrant.

Mitchell stated our policy is to cover the material only which would be \$5,800. We do not pay for the labor.

Chief Hadley stated if they qualified under the policy, which they don't, they would be eligible for \$5,800 in

materials.

Wells stated he does not understand why we are requiring someone else to pay for this if we have been installing those in other places in the city and it is a matter of money.

Mr. Webb stated they just built a 24 x 24 storage building. He stated the building is already constructed and he cannot receive a certificate of occupancy (CO) until the decision is made on the fire hydrant. He stated they did not budget \$35,000 for a building that cost \$25,000 to construct.

Wells stated if the church had waited, the City would have put this hydrant in.

Mayor Fitch questioned how they were approved to build this building.

Mr. Webb stated they have to put the hydrant in before they can receive their CO. His permit expired in January while he has been waiting on this appeal.

Mitchell stated the church was built prior to 1975, so the existing fire hydrant is not adequate even if they hadn't built the storage building. That is the problem.

Burk questioned if they could just not put in the hydrant.

Chief Hadley stated if the church had been built today, additional fire hydrants would have been required. He strongly suggested they not grant exemptions or everyone will be coming to Council for these types of things.

Burk questioned what it would cost the City to do this. He stated we obviously need the hydrant and we just need to do it.

Ihler stated he would have to research the numbers and determine how much labor it would cost. He stated under our contracts the material would cost \$5,800. He stated to do the boring under 82<sup>nd</sup> Street he would have to pull crews from sewer rehab.

Shoemate questioned what we did with CiCi's Pizza.

Mitchell stated we covered the material, not the labor.

Ihler stated there were multiple businesses that benefited from that cost share. He stated he would recommend we contract out the boring if we are going to do this.

Zarle stated the labor would not cost the City since crews are already on the payroll.

Mitchell stated crews are repairing two major sewer line problems right now and he does not feel they could pull those crews off those jobs for some time. It could be three or four months.

Mayor Fitch suggested staff put together the actual costs and bring those numbers back to the Council.

MOVED by Burk, SECOND by Zarle, to table to the March 23, 2010 meeting. AYE: Zarle, Haywood, Wells, Shoemate, Tennis, Drewry, Burk, Shanklin. NAY: None. MOTION CARRIED.

21. Consider approving an economic development agreement with Stanley, Inc. to provide funding assistance in an amount not to exceed \$400,000 for land acquisition and site preparation of approximately 6 acres within the Lawton city limits on which an approximately 52,800 square foot building will be constructed to house Stanley's activities as a contractor in support of operations of the Department of Defense. Exhibits: Recommended Economic Development Agreement and Joint Resolution No. 10-21.

Jensen stated at the last meeting the City Council adopted a joint resolution with the Chamber to provide funding for a building within the Lawton city limits. Staff negotiated a contract with the legal staff of Stanley. He stated a summary of job retention and growth is included with the contract as Exhibit A. This information is not a guarantee, but it is their best projections. Also built into the agreement is that for a period of ten years, Stanley does have to stay within the Lawton city limits and occupy this entire building. If something happens to this building, Stanley will have to move to a location within the city limits and stay for a period of ten years. If they fail to do so, they owe money back on a pro rata basis.

Haywood stated this is in Lawton Public School district.

MOVED by Haywood, SECOND by Zarle, to approve an economic development agreement with Stanley, Inc. to provide funding assistance in an amount not to exceed \$400,000 for land acquisition and site preparation of approximately 6 acres

within the Lawton city limits on which an approximately 52,800 square foot building will be constructed to house Stanley's activities as a contractor in support of operations of the Department of Defense. AYE: Haywood, Wells, Shoemate, Tennis, Drewry, Burk, Shanklin, Zarle. NAY: None. MOTION CARRIED.

22. Consider an ordinance creating Section 23-5-547, Article 23-5, Chapter 23, Lawton City Code, 2005, relating to a driver of a motor vehicle approaching a stationary emergency vehicle or wrecker while flashing its lights on the roadway, and declaring an emergency. Exhibits: Ordinance 2010-\_\_\_\_.

Jensen stated this ordinance was requested by former councilmember Glenn Alford who has the heavy wrecking towing contract with the City of Lawton. He saw a need for this ordinance when his wreckers are responding to an accident or when the police conduct a traffic stop on the roadway. This basically says that if you are in a four lane roadway and the police or a wrecker is on the side of the road with their lights flashing, you need to move over into the left lane to give them a buffer or if you cannot get over, you need to slow down. This is directly out of state statutes which covers the interstates.

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

(Title read by City Attorney) Ordinance 10-10

An ordinance creating section 23-5-547, Article 23-5, Chapter 23, Lawton City Code, 2005, relating to a driver of a motor vehicle approaching a stationary emergency vehicle, wrecker, or tow vehicle while flashing emergency lights, providing for severability, codification, and declaring an emergency.

#### REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Drewry stated she wanted to make sure that everyone understands that all of the pick up with the trees and the limbs constitutes the spring clean up. There will not be an additional clean up and when picking up the limbs they will not pick up anything else. She encouraged everyone to complete their census forms and get them sent back in.

Wells questioned when the branches will be picked up on the west side of town.

Mitchell stated they are still trying to get the site prepared on Rogers Lane.

Ihler stated they have the fence in, but the rain has prevented them from getting the heavy equipment in. He stated the burn permit is through the end of April and he is sure they will have to ask ODEQ for an extension. They are probably looking at June or July before everything is picked up. He requested that citizens not contaminate the tree load with trash, couches, mattresses, etc.

Haywood congratulated McArthur High School for going to the state finals.

COL Lacey stated that the Special Olympics will occur on March 26<sup>th</sup> on Fort Sill. At 8:30 a.m. the parade of athletes will be held on Pritchard Field. The events will go from 8:30 a.m. to 2:00 p.m. both on Pritchard Field and Honeycutt Fitness Center. He thanked Councilmember Wells for his service as Mayor Pro Tem. He supported many ceremonies at Fort Sill.

The Mayor and Council convened in executive session at 8:56 p.m. and reconvened in regular, open session at 9:23 p.m. Roll call reflected all members present.

#### BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

23. Pursuant to Sections 307B.3, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the purchase of real property which is necessary for the NW Santa Fe Bridge Replacement Project #2010-2 and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item 23.

MOVED by Burk, SECOND by Drewry, to authorize staff to negotiate the purchase of real property which is necessary for the NW Santa Fe Bridge Replacement Project #2010-2. AYE: Drewry, Burk, Shanklin, Zarle, Haywood, Wells, Shoemate, Tennis. NAY: None. MOTION CARRIED.

24. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending action relating to the flooding of Wolf Creek in the Meadowbrook Addition and if necessary, take

appropriate action in open session.

Exhibits:

None.

Jensen read the title of item 24. No action is necessary.

There being no further business to consider, the meeting adjourned at 9:25 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