

Meeting of 2010-5-11 Regular Meeting

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
MAY 11, 2010 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

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

Mayor Fitch called the meeting to order at 6:00 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Pastor Chuck Pettigrew, Liberty Heights Christian 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
Richard Zarle, Ward Six
Stanley Haywood, Ward Seven
 Doug Wells, Ward Eight

ABSENT: Robert Shanklin, Ward Five

PROCLAMATION FOR FLOOD AWARENESS MONTH

Mayor Fitch proclaimed May 2010 as Flood Awareness month and presented the proclamation to Jerry Ihler, Public Works Director.

PRESENTATION OF WINNERS FOR WATER CONSERVATION POSTER CONTEST

Trish Hale, Chief Chemist and Industrial Pre-Treatment Coordinator for the City of Lawton, stated there were 98 entries from kindergarten to 12th grade. Ms. Hale announced the poster contest winners.

PRESENTATION OF TRASH OFF AWARDS

Anthony Griffith, Neighborhood Services Supervisor, presented awards for Trash Off Day, which was held Saturday, April 22, 2010. He stated 47 tons of trash was collected and over 1,700 people volunteered.

RECOGNITION OF HERSHEY TRACK MEET PARTICIPANTS

Alicia Mitchell, Parks and Recreation Department, recognized the young men and women who participated in the Hershey Track Meet and who will continue on to Norman on June 26th to compete in the state track meet. She stated this program has been held in Lawton for over twenty years. Over 430 children participated in the track meet this year.

AUDIENCE PARTICIPATION:

Debra Rainwater, 5701 NW Ash Avenue, stated since the last Council meeting the ravine in their neighborhood has been marked with gang graffiti. She stated the name of the Animal Control officer that told them he could not do anything was Julio Ponce. She stated the dog is still running around. Someone called and told them that the City of Lawton has done all they can do. They were told that over the past two years this person has received over 50 tickets.

Mayor Fitch stated he has seen the correspondence between the various departments and he knows there has been a concerted effort on the City's part.

Chief Ronnie Smith, Lawton Police Department, stated he has checked and there has been one call to that area in the last 30 days and that call was to 5701 and he has had no calls to 5706. The call about 5701 was because kids were playing basketball and blocking the street. He has had the gang officers driving around the area.

Mayor Fitch stated that citations have been issued and fines have been paid, but this has caught the attention of city hall. He stated they will continue the efforts.

Burk stated he is concerned that we have given out fifty tickets and nothing else can be done to that location. He questioned if something can be done through an ordinance that if someone gets to a specific amount, there is other recourse we can take. These people are going to be habitual and it will affect everyone in that neighborhood.

Mayor Fitch stated that he has seen the citations that have been issued over the years and it has been less than a dozen.

Mitchell stated there have been approximately a dozen citations in the past four years.

Burk stated it is disturbing that someone is causing distress to the other people on that block.

Mayor Fitch stated city staff is aware of the problem and will do all that they can.

Mitchell stated they must commit some kind of criminal act for us to arrest them.

Shoemate questioned if this would fall under the nuisance law.

Anthony Griffith, Neighborhood Services Supervisor, stated that graffiti falls under his division and they do issue citations. He stated they do have a sliding scale for the fines and he suggested they raise the fines every time they receive one, this will get their attention.

Jensen stated we are controlled by state statute as far as what we can impose by a fine. He stated we have plenty of ordinances on the books. He can look at the code and figure out what can be done.

Griffith stated the property owner is responsible for removing the graffiti.

Mayor Fitch stated the issue is being addressed and the Council can look at recommendations for enforcement and stricter fines.

Haywood stated there are a lot of drugs in the neighborhood and if they can stop the selling of drugs, they can stop the graffiti.

Mayor Fitch stated there are a lot of entities within this community that are taking responsibility and doing their part to clean up the community.

Wells stated this is in his ward and he has not heard from anyone regarding the problem, but he will keep watching the area.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF APRIL 27, 2010.

MOVED by Drewry, SECOND by Tennis, to approve the minutes of the regular meeting of April 27, 2010. AYE: Tennis, Drewry, Burk, Zarle, Haywood, Wells, Shoemate. NAY: None. MOTION CARRIED.

CONSENT AGENDA: The following items are considered to be routine by the City Council and will be enacted with one motion. Should discussion be desired on an item, that item will be removed from the Consent Agenda prior to action and considered separately.

Wells requested item #6 be considered separately.

MOVED by Shoemate, SECOND by Drewry, to approve the consent agenda with the exception of item #6. AYE: Drewry, Burk, Zarle, Haywood, Wells, Shoemate, Tennis. 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: Vicki L. Black in the amount of \$2,565.00. Exhibits: Legal Opinions/Recommendations and **Resolution No.10-40**.

2. Consider adopting a resolution approving the settlement by a joint petition and making payment in the pending workers' compensation claim of Stephanie Crawford. Exhibits: **Resolution No. 2010-41**.
3. Consider authorizing application of the 2010 Department of Justice Edward Byrne Assistance Grant Local (JAG). Exhibits: None.
4. Consider authorizing application and acceptance of a Department of Justice Grant. Exhibits: None.
5. Consider accepting a FEMA/State of Oklahoma public assistance check for the total amount of one hundred fifty two thousand six hundred fifty two dollars and twenty two cents (\$152,652.22) and authorize the Finance Department to deposit these funds into the Sewer Rehab Fund and the 2005 CIP to reimburse the accounts from which the funds were expended during the 2007 summer floods. Exhibits: Summary of FEMA/State of Oklahoma checks received and eligible project costs.
6. Consider approving the construction plan documents and bid specifications for Phase IV of the Original Lawton High School Restoration, and authorize Meyer Architecture Plus, LLC to proceed with the bidding phase of the project. Exhibits: Meyer Architecture Plus, Letter & Proposed Project Schedule and Pre-Construction Services, Inc. Phase IV Project Estimate.

Wells questioned if all of the telephone boxes, computer hookups, etc. has been included.

Bryan Long, Assistant City Attorney, stated they retained the services of a local consultant to go through the plans in great detail. All of the changes have been incorporated in the plan.

Wells questioned if the engineers estimate could be kept secret.

Ihler stated typically they do not make the engineers estimate public prior to the bid opening.

Jensen stated we have to have an engineers estimate and the actual contract price has to be within a certain range, but he does not think the code says anything about making it public until that point.

Wells stated they always approve going out for bids and it always gives the amount of money that is available. He questioned if they always had to announce the amount of money available.

Ihler stated the actual engineers estimate for the project is submitted in a sealed envelope and opened the same time the contractors bids are opened. He stated when they go out and advertise for construction projects, they are asked to provide an estimated construction range because some contractors may only want to bid on projects that are greater than \$1 million or between \$2 million and \$5 million.

Mayor Fitch stated that Meyer Architecture prepared the engineers estimate on this project. He stated all of this is public information.

Jensen stated not to the point until they know the contract amount is within the range required by the ordinance for the engineers estimate.

Mayor Fitch suggested Ihler get with the City Attorney and work something out where this is standard policy.

Wells stated anytime we tell a contractor up front how much money we have for a project, they are going to bid close to that amount.

Ihler stated that when they advertise, they are required to provide a range.

Mitchell stated we have CIP programs and we have estimated the cost of these projects when you go out for a vote, so it is all out in the public.

MOVED by Wells, SECOND by Zarle, to approve the construction plan documents and bid specifications for Phase IV of the Original Lawton High School Restoration, and authorize Meyer Architecture Plus, LLC to proceed with the bidding phase of the project. AYE: Burk, Zarle, Haywood, Wells, Shoemate, Tennis, Drewry. NAY: None. MOTION CARRIED.

7. Consider approving the Proposed Cooperative Program and Memorandum Agreement between the Oklahoma Water Resources Board, the U.S. Geological Survey and the City of Lawton and authorizing the Mayor and City Clerk to execute the agreement. Exhibits: Proposed Cooperative Program and Memorandum Agreement (on file with the City Clerk).

8. Consider entering into a Lease-Purchase Agreement with Dove Creek Development, LLC. for approximately

1,645 linear feet of 12 inch diameter water main located west of SW 52nd Street and north of SW Bishop Road and accept maintenance bond. Exhibits: Lease-Purchase Agreement with exhibits.

9. Consider approving the record plat for Dove Creek Addition, Part 3, accept the improvements, escrow agreement in lieu of completion of minor improvements, maintenance bonds and easements outside the platted area. Exhibits: Plat Map. Escrow Agreement, Maintenance Bonds and Easements are on file in City Clerk s Office.

10. Consider granting an extension of time for the performance bond for drainage improvements in Scissortail, Part 1. Exhibits: None.

11. Consider awarding (CL10-038) Topsoil, item 1a (topsoil delivered), to Ballou Topsoil of Elgin, OK. Exhibits: Department recommendation, abstract of bids.

12. Consider awarding (CL10-038) Topsoil, item 1b (topsoil picked up), to Beaver Creek Tractor Service of Cache, OK. Exhibits: Department recommendation, abstract of bids.

13. Consider awarding (RFPCL10-036) Filter Media (GAC) Removal & Replacement to Norit Americas, Inc of Marshall, Texas. Exhibits: Department recommendation, abstract of bids.

14. Consider awarding (CL10-039) Nomex Uniforms to Casco Industries of Oklahoma City, OK. Exhibits: Department recommendation, abstract of bids.

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

Lawton Urban Renewal Authority

John P. Purcell, Jr.
3006 NE Muse Circle
Lawton Oklahoma 73507

16. Consider approval of payroll for the period of April 19 May 2, 2010.

NEW BUSINESS ITEMS:

17. Hold public hearings and adopt resolutions declaring the structures located at: 313 S.W. Park Avenue, 411 S.W. Garfield Avenue, 709 S.W. Park Avenue, 916 S.W. 9th Street, 1002 S.W. B Avenue and 1207 S.W. H Avenue to be dilapidated, detrimental to the health, safety or welfare of the general public and community, a blighting influence and a public nuisance. Authorize the City Attorney to commence legal action in district court to abate each nuisance. Further authorize Neighborhood Services to solicit bids to raze and remove the dilapidated structure, if necessary. Exhibits: Six Resolutions. Summary documents with supporting photos, reports from the Fire Marshal, Housing Inspectors, and case history are available from Neighborhood Services.

Mayor Fitch stated 313 SW Park Avenue has been stricken from the agenda.

411 S.W. Garfield Avenue

Griffith presented photographs of the property. He stated there have been no utilities since July 2007.

Haywood stated that once the structure is removed, no one can ever put a mobile home back on that property.

Griffith stated that is correct according to city code.

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

MOVED by Haywood, SECOND by Burk, to adopt **Resolution 10-42** declaring the structure located at 411 S.W. Garfield Avenue to be a dilapidated public nuisance. AYE: Zarle, Haywood, Wells, Shoemate, Tennis, Drewry, Burk. NAY: None. **MOTION CARRIED.**

709 S.W. Park Avenue

Griffith presented photographs of the property. He stated there have been no utilities since August 2009.

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

MOVED by Haywood, SECOND by Zarle, to adopt **Resolution 10-43** declaring the structure located at 709 SW Park Avenue to be a dilapidated public nuisance. AYE: Zarle, Haywood, Wells, Shoemate, Tennis, Drewry, Burk. NAY: None. **MOTION CARRIED.**

916 S.W. 9th Street

Griffith presented photographs of the property. He stated there have been no utilities since May 2009.

PUBLIC HEARING OPENED.

Dave Dixon stated the home belongs to his uncle who is in a nursing home. He stated he intends to clean up the mess and fix the house. He has mowed the grass and moved a lot of the junk out of the privacy area.

Jensen stated that if this property is declared dilapidated tonight, Mr. Dixon will have thirty days to apply for a permit to either demolish or remodel the property. If progress is made, the City will work with Mr. Dixon.

Griffith stated if satisfactory progress is made, he will be allowed two thirty day extensions to bring the property up to code. Even after ninety days, if substantial work has been done, staff will still work with you.

PUBLIC HEARING CLOSED.

MOVED by Haywood, SECOND by Zarle, to adopt **Resolution 10-44** declaring the structure located at 916 SW 9th Street to be a dilapidated public nuisance. AYE: Haywood, Shoemate, Tennis, Drewry, Burk, Zarle. NAY: None. ABSTAIN: Wells. MOTION CARRIED.

1002 S.W. B Avenue

Griffith presented photographs of the property. He stated there have been no utilities since May 2008.

PUBLIC HEARING OPENED.

Ricky Brierton, 6829 SW Fenwick, stated his brother owns the property. He stated his brother ended up with the property when his grandmother passed away. The property has been in litigation for five years. His brother took a job in Afghanistan last year and he will be back in Lawton on June 20th for two weeks.

Shoemate stated there is a vagrant living in the home.

Mr. Brierton stated he took police officers to the home in the past two days and he has boarded up the doors. He has been over there picking up trash and trying to clean up the debris.

Mayor Fitch suggested this property be tabled until the property owner can be in attendance.

Drewry stated she knows this family and she feels they should table this item.

PUBLIC HEARING CLOSED.

MOVED by Drewry, SECOND by Tennis, to table for sixty days. AYE: Wells, Tennis, Drewry, Burk, Zarle, Haywood. NAY: Shoemate. MOTION CARRIED.

1207 S.W. H Avenue

Griffith presented photographs of the property. He stated there have been no record of this property having utilities.

Haywood stated once this is removed, another mobile home cannot be placed on this lot.

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

MOVED by Haywood, SECOND by Zarle, to adopt **Resolution 10-45** declaring the structure located at 1207 S.W. H Avenue to be a dilapidated public nuisance. AYE: Shoemate, Tennis, Drewry, Burk, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

18. Discuss a proposal to amend the Charter of the City of Lawton by removing the requirement for a primary election in December followed by a general election in February for the election of the Mayor and councilmembers and replacing the same with one (1) general election to be held in November; consider appointing a review committee for other charter changes; and provide direction to staff. Exhibits: List showing election dates of various other cities.

Tennis stated they discussed this subject at the previous council meeting and now it is just a matter of appointing

two people to do the charter review and forward to the City Attorney.

Mayor Fitch stated the charter review committee is comprised of citizens within the community appointed by the Mayor. He stated there are other things that are on the mind of the citizens such as the possibility of term limits and at-large council members. If they are going to make any changes to the charter they should utilize the committee to come up with the recommended changes.

Drewry stated she has heard both pros and cons regarding changing over to one election.

Mayor Fitch stated a con is that if you have four people running and the highest percentage had 24% of the vote, that is not the consensus of the voters in that ward.

Tenis stated this is about efficiency and saving money.

Mayor Fitch stated you have to look at how effective a councilmember would be if they only won by 24%. There will be a lot of disgruntled people.

Jensen stated there are several options. If the Mayor is going to appoint a committee it would be of councilmembers, if they are going to do a citizens advisory committee, it would be with nominations by the Mayor and confirmation by the Council. The way this was done in the mid 1990 s is that each councilmember appointed a citizen from their ward who made recommendations back to the Council.

Haywood stated he liked the idea of a representative from each ward.

Drewry stated she likes that idea also.

Jensen stated they need to move quickly.

Wells stated he does not feel it is realistic to try and get a committee together to go through the charter before a November election.

Mayor Fitch stated if they get into this and see that it needs a more thorough study, they could look at a spring charter change election.

Drewry stated they need to just get it going and see what happens.

Wells stated they don t need to rush this if you are talking about the charter. There are other elections they could tag onto.

Shoemate suggested that everyone have their names turned in by the first meeting in June.

Tenis questioned what will happen if not everyone appoints a representative.

Drewry stated that everyone should be able to find someone to serve.

MOVED by Drewry, SECOND by Burk, to authorize each councilmember to appoint a representative from their ward, prior to the first meeting in June, to serve on the charter review committee. AYE: Tenis, Drewry, Burk, Haywood, Wells, Shoemate. NAY: None. ABSTAIN: Zarle. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Wells stated three councilmembers were appointed by the Mayor last September to review our RV ordinance and make suggestions to the Council. He stated they have not been able to meet and Neighborhood Services Division has not been enforcing the code since that time. He stated they need to meet or the Mayor needs to appoint other councilmembers.

Burk stated they just have not been able to make it work. He stated just give him a date and he will make it work.

Drewry, Burk and Wells agreed to meet on Thursday, May 20th at 9:00 a.m.

Wells stated he attended a meeting regarding the use of a vacant lot on 31st Street for parking by Comanche County Memorial Hospital during the construction of the new cancer center. He stated they are encroaching on the property next door. They were given until March 31st to have that torn up and sod laid. He stated they are still using it for parking and this has made the surrounding property values deteriorate.

Mitchell stated he has a promise from the hospital administrator that they would proceed with sodding the lot.

COL Lacey stated they have secured Toby Keith for their July 2nd concert. He stated this will enable soldiers and their families to enjoy the concert on the 2nd and then come down and enjoy the festivities in the park on July 4th. Tickets for the concert are \$30. He stated Monday, May 17th will mark the 100th anniversary of the Field Artillery School at Fort Sill.

Shoemate thanked all of the volunteers who worked at Arts for All.

Tenis stated this is Lupus/Fibromyalgia Awareness Month and there is a group that will be releasing butterflies on May 22nd at Comanche County Hospital. This group meets at 11:00 a.m. on the 2nd and 4th Saturdays of each month at Comanche County Memorial Hospital. For more information they can contact his wife Kelly at 284-5272.

Mitchell reminded everyone that a budget workshop is scheduled for Tuesday, May 18th at 8:30 a.m. in the City Council Chambers.

Endicott distributed the preliminary budget.

Mitchell stated they are not proposing a rate increase or a cost of living increase for next year.

Endicott stated there is a very moderate revenue increase. There is a 1% on sales tax and there is a slight decrease in water revenue. He stated there is almost \$1 million set aside for an emergency reserve.

Mitchell stated HB 1786 passed the full house by a 92-6 vote and it will now go to the full senate. This bill will allow us to pay for infrastructure by capturing state sales tax.

The Mayor and Council convened in executive session at 7:34 p.m. and reconvened in regular, open session at 8:54 p.m. Roll call reflected all members.

BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

19. Pursuant to Sections 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss pending action relating to a Notice of Violation (NOV) received from the Oklahoma Department of Environmental Quality (ODEQ) regarding the sludge lagoons utilized for the Medicine Park Water Treatment Plant (MPWTP) located on Ft. Sill and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item 19. No action is required.

20. 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 20. No action is required.

21. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to review the employment of Nathan M. Johnson as Municipal Judge, and in open session take other action as necessary. Exhibits: None.

Mayor Fitch read the title of item 21. He stated this was a semi annual evaluation of Judge Johnson and the evaluation was outstanding and the City Council felt he was doing an outstanding job.

Haywood congratulated Barbara McNally for receiving the Airport Manager of Year and also the Lawton Fort-Sill Airport was named the Airport of the Year.

There being no further business to consider, the meeting adjourned at 8:56 p.m. upon motion, second and roll call vote.

/s/ Fred L. Fitch
FRED L. FITCH, MAYOR

ATTEST:

/s/ Traci L. Hushbeck
TRACI HUSHBECK, CITY CLERK

