

Meeting of 2010-8-10 Regular Meeting

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
AUGUST 10, 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 Fred Erst, Fort Sill Liaison

Mayor Fitch called the meeting to order at 6:02 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Pastor Mark Henslee, Westminster Presbyterian 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 2010 RODEO DAYS

Mayor Fitch proclaimed August 11th, 12th, 13th and 14th as Rodeo Days 2010.

AUDIENCE PARTICIPATION: None.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETINGS OF MAY 25 AND JULY 27, 2010.

MOVED by Drewry, SECOND by Tennis, to approve the minutes of the Lawton City Council regular meetings of May 25 and July 27, 2010. AYE: Zarle, Haywood, Wells, Shoemate, Tennis, 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.

Jensen stated item #2 needs to be considered separately. Shanklin requested item #11 and Wells requested items #3, #5, #12, #14, #16, #17 and #18 be considered separately. .

MOVED by Drewry, SECOND by Burk, to approve the consent agenda with the exception of items #2, #3, #5, #11, #12, #14, #16, #17 and #18. AYE: Haywood, Wells, Shoemate, Tennis, 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: John and Leota Erwin in the amount of \$183.00, and Weldon and Debra Love in the amount of \$1,506.10. Exhibits: Legal Opinions/Recommendation and **Resolution No.10-81.**

2. Consider the following damage claim recommended for denial: Judith Nazaryk for White Glove Realty in the

amount of \$1,545.00. Exhibits: Legal Opinion/Recommendation.

Judy Nazaryk, property manager for the homeowner, Sandy Isreal at 4650 Caber Circle, stated Mr. Mallon from Hodges Plumbing will address the claim.

Marlin Mallon, Hodges Plumbing, stated when they got to the tap the city main was collapsed. He followed procedure and called the city to come out and take pictures. He stated city staff did not show up until the next morning. Instead of leaving the homeowner with sewage running through their yard, he ran a temporary pipe and just set it on the main and he opened it up enough where it would keep flowing and not fill the hole up. The city did come and replace the section of main, but he did not collapse the main from excavation. He stated the claim memorandum stated he did not follow procedure, but the city did not even call him to tell him they were coming, he just had to go out and found out the city had been there.

Mayor Fitch questioned when he called the city.

Mr. Mallon stated he called a little after noon. He stated they came out the next day just to take the picture.

Kelea Fisher, Assistant City Attorney, stated Jim Bonnarens, Wastewater Collection Foreman, was in attendance, and her office is recommending denial of the claim based upon the fact that when the city was called and Mr. Bonnarens arrived they had already done the excavation, however they had removed the existing service tap and there was a hole in the main. The break was a clean break which was something that was done during the course of the excavation. According to policy the plumber should allow the city crews to assess the line prior to attempting to connect the service line. They had all of the work done before the city got out there.

Bonnarens stated he got a call and when he went to the site the main had been disturbed and the service tap had been removed. He took photos and returned those to the office. The normal procedure is that they get a phone call that the plumber has excavated down to the main and exposed the city main line. The city inspects the main line to make sure there are no cracks and that a connection can be made thoroughly to the main. If not, the city will send out a crew and put in a segment of pipe that is more suitable to tap into and then the contractor can finish work. In this claim, they did not know what the pipe looked like before the contractor removed the existing service line.

Mr. Mallon stated he could not leave sewage running through their yard. He just fixed it where it could drain.

Burk stated Mr. Mallon called in at noon and the city did not get out there until the next day to take the photo.

Bonnarens stated he did not know what day they called in. He received a call from the secretary to go look at a service call. He went out as soon as he got the call.

Mayor Fitch questioned is staff had exact times.

Wells stated the claim memorandum stated that crews noted the main was egg shaped and in poor condition. He does not know why we would deny this.

Bonnarens stated preventive maintenance comes from knowing that the pipe was egg shaped. He stated they are trying to prevent problems with the line before they occur rather than responding to them afterwards.

Wells stated the crews thought it was in poor shape.

Bonnarens stated that sewer will flow better in a perfectly round pipe and this was egg shaped.

Burk stated the plumber did what he had to do and if it took us that long to get out there, he had no choice but to get that opened up. He stated this is not the first time something like this has come before the Council and no one knows when city crews were there and what has happened. This customer could not be left with a stopped up sewer line and he did all he could do.

MOVED by Burk, SECOND by Zarle, to approve the damage claim of Judith Nazaryk for White Glove Realty in the amount of \$1,545.00 (**Resolution No.10-82**) AYE: Wells, Shoemate, Tennis, Drewry, Burk, Shanklin, Zarle, Haywood. NAY: None. MOTION CARRIED.

3. Consider approving an Outside Water and Sewer Sales Contract with the Board of Education of Dependent School District No. D-48, and authorize the Mayor and City Clerk to execute the Contract. Exhibits: Location Map. Contract is on file in the City Clerk s Office.

Wells questioned if these water lines are within the city limits.

Jerry Ihler, Public Works Director, stated there is a six inch water line that goes to the end of Flower Mound school and it stops on the south edge and that is where the city main stops. There is a 24-inch line that runs down Flower Mound to Tinney Road. The city limits stops at Flower Mound and Bishop Road.

Wells questioned if they were responsible for the cost of tying into the city line.

Jensen stated they already had water service and this is just adding sewer service.

Ihler stated as part of the contract they are responsible for running their line to our main.

Wells questioned if our system could handle the extra load.

Ihler stated yes.

Zarle questioned if the rates were the same.

Mitchell stated he believes it is 1 times the normal rate.

Wells questioned if anyone else outside the city limits uses our sewer system.

Ihler stated we have had some requests. He stated Geronimo has a line to their lagoon system and they pump off the top of the lagoon and there is a rate that they pay the City of Lawton. We do not take all of their sewage.

MOVED by Wells, SECOND by Drewry, to approve an Outside Water and Sewer Sales Contract with the Board of Education of Dependent School District No. D-48, and authorize the Mayor and City Clerk to execute the contract. AYE: Shoemate, Tennis, Drewry, Burk, Shanklin, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

4. Consider approving an Outside Water Sales Contract with Lisa Tugmon, and authorize the Mayor and City Clerk to execute the Contract. Exhibits: Location Map. Contract is on file in the City Clerk s Office.

Wells questioned if there was anything with regards to these outside rates that allows them to get relief from a leak like they do for inside customers.

Jensen stated there is no provision for outside water sales. They maintain their own distribution system.

5. Consider approving an Agreement between the Lawton Chamber of Commerce Inc., and the City of Lawton to fund activities by the Chamber designed to encourage, promote and foster economic development in the City of Lawton, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed agreement.

Wells questioned if the \$892,500 was the total amount the Chamber would be receiving.

Mitchell stated that is an estimate. There is a formula where they receive 70% collected.

Wells stated according to the commentary, they use the money to fund economic development activities. They really use the money for more than just economic development.

Mitchell stated the Chamber is required to allocate those dollars between economic development and tourism.

MOVED by Wells, SECOND by Haywood, to approve an Agreement between the Lawton Chamber of Commerce Inc., and the City of Lawton to fund activities by the Chamber designed to encourage, promote and foster economic development in the City of Lawton, and authorize the Mayor and City Clerk to execute the Agreement. AYE: Tennis, Drewry, Burk, Shanklin, Haywood, Wells, Shoemate. NAY: Zarle. MOTION CARRIED.

6. Consider ratifying the action of the Lawton Water Authority to approve the Surface Sub-Lease Contract for Tract E-14 and Tract E-25 at Lake Ellsworth between the Lawton Water Authority and Cameron University, and authorize the Mayor and City Clerk to execute the Contract. Exhibits: The Surface Sub-Lease Contracts are on file in the City Clerk s Office.

7. Consider approving contract with Journey Productions for technical support services for the 2010 International Festival for September 20-28, 2010. Exhibits: Contract on file in City Clerk s office.

8. Consider approving contracts with Tin Can Phone, Ed Walewski of Needfire, Brooks Kendall of Ken-Ran

9. Consider approving contracts for the FY2010-2011 Co-Sponsorship Grant Program. Exhibits: Contracts on file in City Clerk's office.

10. Consider accepting a grant of \$1,427.81 from the Oklahoma Department of Libraries to support the Siga Adelante Expansion Grant. Exhibits: The Siga Adelante Expansion Grant agreement is on file in the City Clerk's office.

11. Consider approving the Bylaws of the City Planning Commission. Exhibits: CPC Bylaws.

Jensen stated a couple of meetings ago the City Council authorized the CPC, by ordinance, to amend their bylaws in reference to absences and distinguish between excused and unexcused absences. Their initial amendment was to not allow unexcused absences in excess of two consecutive from their meetings and they indicated that if that was to occur then the board member was subject to removal by the City Council. He asked them to simply adopt a rule that said they'll be removed from office if they don't excuse their absences at their commission meetings because they are the ones in a position to know whether the absence should be excused or not. This issue does not need to come back to the Council and that is what they have done.

Shanklin stated he does not see why they should change the articles that govern the City Council to give it to another.

Jensen stated they were having problems with commissioners who may have had a very good reason to miss several meetings.

Mayor Fitch stated they have had some members that have had bypass surgery and they were out for an extended period of time.

Jensen stated that there was a provision in the city code that said if you miss a certain number of meetings, whether they were excused or not excused, they were automatically removed from their position. The Mayor then had to re-nominate and the Council had to reappoint and it just didn't make any sense.

Shanklin questioned how many times we have had to do that in the last twenty five years.

Jensen stated they have done that at least once in the last six months with the CPC.

Shanklin suggested they leave it alone.

Wells suggested they have the same rules for all boards and commissions. He questioned why they changed it from three unexcused to two unexcused.

Jensen stated it is in excess of two.

Shanklin suggested they send it back to the CPC.

MOVED by Shanklin, SECOND by Wells, to send the bylaws back to the City Planning Commission to rework language. AYE: Shanklin, Zarle, Haywood, Wells, Shoemate. NAY: Drewry, Burk, Tenis. MOTION CARRIED.

Jensen requested some direction for the commission on how they want it to be reworked.

Wells stated he would like to know why they changed it from three to two and he feel they ought to look at having the same rules for all boards and commission.

Tenis stated he agrees.

Burk stated he also feels they need to make the rules across the board and they need some clarification on why they are going from three to two.

Mayor Fitch stated that it sounds like the Council wishes that all boards, trusts, authorities would have the same rules.

Jensen stated there was an ordinance passed a couple of meetings ago that gave them the authority, by their bylaws, to have their own rules. If we are not going to follow that then we need to relook at the ordinance and

start at that point and then go forward. Right now they have that authority but it has to be approved by the Council. They'd like to have the courtesy to know ahead of time if they are going to have a quorum or not.

Wells stated they already had authority to do bylaws.

Haywood stated he feels that everyone needs to be the same. No one needs to be separate.

Jensen stated that it is not going to be possible with separate entities like the Airport Authority, LEDA, LETA and LIDA because they are independent legal entities and they govern themselves.

Shanklin stated that they govern themselves and whenever they make a decision they bring it to the City Council to rubber stamp it. He does not like that part.

Jensen stated with somebody like the CPC or other city agencies, you can have a rule like that, but not with separate independent trusts.

Wells stated he feels that all the boards the Council has control over should have the same rules.

Jensen stated he is going to bring back the ordinance, not individual bylaws, with a change that would control city agencies that would account for unexcused absences.

Burk stated a lot of committees and trust authorities have a hard time getting enough people for a quorum, it's a major issue. He feels there are some major problems.

Jensen questioned if the Council wanted two or three unexcused absences.

Zarle suggested a maximum of three.

12. Consider approving construction plans for a sewer line to serve the proposed Stanley office building located at 1224 SW Rex Madeira Road. Exhibits: Location Map.

Wells questioned who was going to pay for the 860 linear feet of sewer line.

Mitchell stated it would either be paid by Stanley or the Lawton Industrial Foundation. It will not be the City of Lawton.

Jensen stated we provided \$400,000 to Stanley.

Wells clarified that this is not additional money.

Jensen stated no.

MOVED by Wells, SECOND by Tennis, to approve construction plans for a sewer line to serve the proposed Stanley office building located at 1224 SW Rex Madeira Road. AYE: Burk, Shanklin, Zarle, Haywood, Wells, Shoemate, Tennis, Drewry. NAY: None. MOTION CARRIED.

13. Consider approving Amendment No. 1 to the Chevron Energy Services Contract between the City of Lawton and Chevron Energy Solutions, and authorize the Mayor and City Clerk to execute necessary documents. Exhibits: U.S. Department of Energy, Assistance Agreement, May 13, 2010, U.S. Department of Energy, Approved Project Worksheet, May 13, 2010. Chevron Energy Solutions Performance Contract, Amendment No. 1 is available for review in the City Clerk's Office.

14. Consider approving plans and specifications for the 2008 CIP Residential Street Phase 3 Project #2010-3 and authorizing staff to advertise for bids. Exhibits: None.

Wells questioned where the \$685,176.96 was approved in the budget.

Ihler stated the account with the \$694,602 is coming out of the 2008 CIP money for Ward 2 because it will be used for 17th Street between Smith and Lindy. The other two projects will come out of Ward 8 and will be funded from that \$685,176.96 that remains in that Ward 8 account. He stated this is all 2008 CIP money.

MOVED by Wells, SECOND by Tennis, to approve plans and specifications for the 2008 CIP Residential Street Phase 3 Project #2010-3 and authorizing staff to advertise. AYE: Shanklin, Zarle, Haywood, Wells, Shoemate, Tennis, Drewry, Burk. NAY: None. MOTION CARRIED.

15. Consider purchasing the real property located at 4201 NW Santa Fe Avenue which is necessary for the NW Santa Fe Bridge Replacement Project #2010-2, authorizing the Mayor and City Clerk to execute the necessary

documents to close the sale and authorizing payment for the same. Exhibits: Contract for Sale is on file at the City Clerks office.

16. Consider accepting a warranty deed and a temporary easement from Gore Medical Center Owners Association, LTD and Wichita Medical Associates, LLC for right of way needed for the NW 38th Street (Gore Blvd. to Cache Road) Project #2006-7, authorizing the Mayor and City Clerk to execute the documents and authorizing payment for the same. Exhibits: Warranty deed and temporary easement are on file in the City Clerk's office.

Wells questioned the total amount for the right of ways on 38th Street. He understands that citizens need to be reimbursed something for it, but he feels that since this is an improvement to their street they may be a little more lenient towards the city.

Ihler stated he will get Councilmember Wells a report of what has been paid. This is the 25th parcel that has been purchased. He stated it is approximately \$500,000.

MOVED by Shanklin, SECOND by Tennis, to accept a warranty deed and a temporary easement from Gore Medical Center Owners Association, LTD and Wichita Medical Associates, LLC for right of way needed for the NW 38th Street (Gore Blvd. to Cache Road) Project #2006-7, and authorize the Mayor and City Clerk to execute the documents and authorizing payment for the same. AYE: Zarle, Haywood, Wells, Shoemate, Tennis, Drewry, Burk, Shanklin. NAY: None. MOTION CARRIED.

17. Consider accepting a temporary utility easement and a permanent sidewalk easement from Stripes LLC which are needed for the NW 38th Street (Gore Blvd to Cache Rd) Project #2006-7, authorizing the Mayor and City Clerk to execute the easements and authorizing payment for the same. Exhibits: Document is on file in the City Clerk s Office.

MOVED by Wells, SECOND by Drewry, to accept a temporary utility easement and a permanent sidewalk easement from Stripes LLC which are needed for the NW 38th Street (Gore Blvd to Cache Rd) Project #2006-7, and authorize the Mayor and City Clerk to execute the documents and authorizing payment for the same. AYE: Haywood, Wells, Shoemate, Tennis, Drewry, Burk, Shanklin, Zarle. NAY: None. MOTION CARRIED.

18. Consider accepting a warranty deed, a permanent drainage and utility easement and a temporary utility easement from St. Paul s Methodist Church for right- of-way needed for the NW 38th Street (Gore Blvd. to Cache Road) Project #2006-7, authorizing the Mayor and City Clerk to execute the documents and authorizing payment for the same. Exhibits: Warranty deed, permanent drainage and utility easement, and temporary utility easement are on file in the City Clerk's office.

MOVED by Wells, SECOND by Haywood, to accept a warranty deed, a permanent drainage and utility easement and a temporary utility easement from St. Paul s Methodist Church for right- of-way needed for the NW 38th Street (Gore Blvd. to Cache Road) Project #2006-7, and authorize the Mayor and City Clerk to execute the documents and authorizing payment for the same. AYE: Wells, Shoemate, Tennis, Drewry, Burk, Shanklin, Zarle, Haywood. NAY: None. MOTION CARRIED.

Haywood stated that with regards to the Sante Fe bridge project, they need to send a letter asking Comanche County for some assistance with the cost to fix that bridge.

Mitchell stated they tried to introduce legislation this session to address this very issue but the county commissioners association and lobbyist fought it tooth and nail. It would have allowed us to do joint projects but they couldn t get it out of committee.

Mayor Fitch stated they could do joint projects if everyone would sit down at the table.

Mitchell stated current legislation has population limits and this would have revised those limits.

19. Consider extending (CL10-004) Sulfuric Acid to Shrieve Chemical Company of The Woodlands, TX. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.

20. Consider awarding (CL10-048) Agricultural Leases to named parties on attached memo from City Attorney. Exhibits: Department Recommendation, Abstract of Bids.

21. Consider extending (CL10-002) Sodium Hypochlorite to Petra Chemical Company of Dallas, TX. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.

22. Consider extending (CL09-003) Liquid Oxygen to Airgas Mid South of Tulsa, OK. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.

23. Consider extending (CL09-004) Rental of Portable Restrooms to ARA Equipment Rental of Lawton, OK.

Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.

24. Consider change order 1 to contract (RFPCL06-055) HVAC Services to Johnson Controls Inc, of Oklahoma City, OK.
Exhibits: Change Order Form.
25. Consider approving appointments to boards and commissions. Exhibits: None.

Airport Authority

Dan Mullins
Chamber
716 NW 46th Street
Lawton Oklahoma 73505
Unexpired Term 12/31/2012

Citizens' Committee On Capital Improvement Program (CIP)

Michael Blose
2904 NE Coronado
Lawton, Oklahoma 73507
09/08/13

Lakes and Land Commission

Bob Dismuke
5555 NW Eisenhower
Lawton, Oklahoma 73505
08/10/2013

26. Consider approval of payroll for the period of July 26 August 8, 2010.

OLD BUSINESS ITEMS:

27. 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: Flectia and Eric Porch in the reduced amount of \$27.44. Exhibits: Claims Memorandum/Recommendation dated July 13, 2010.

Flectia Porch, 6937 NW Eisenhower Drive, stated that both she and the city worker admitted that it was windy that day and the board flew out and hit her car. She stated the board was eight feet long and she had a receipt from Sutherlands. She stated she had her four year old daughter with her and when the board slammed into the back of her car it pushed her baby forward. She felt like the city worker was not being safe. She stated the worker called his supervisor, Rose Wilson, from the Animal Welfare Division. She stated Ms. Wilson asked her to bring the car in so they could look at it. When she arrived at the animal welfare office Ms. Wilson would not even come out of the building to look at the car. She stated Ms. Wilson called her and said she would meet her at her home. Ms. Wilson and the police met her at her home. She stated she is upset because no one has even apologized for the incident.

Mayor Fitch questioned if he damaged both sides of the vehicle.

Ms. Porch stated he damaged the tail light all the way across, the bumper and the end of the trunk on the left hand side. She stated she has received an estimate of over \$1,000 to get it fixed. She stated the board that hit her car was eight feet long.

Ms. Fisher stated that Mr. Robert Sockbeson, the city employee involved in the incident, was in attendance. She stated that he does have a portion of the board that hit the tail light. She stated Ms. Porch provided two estimates, one for \$597.82 and one for \$544.11 and she asked for additional damages up to the amount of \$750 for emotional stress, inconvenience and because her child was scared that day. Staff inquired as to how much it would cost to buff out the tail light and that was the recommended \$27.44.

Officer Sockbeson, Animal Welfare Division, stated the board did make contact with only the tail light lens. He distributed a piece of the board. He stated it was a 4 x 8 sheet of veneer, which is no more than plywood.

Mayor Fitch questioned if it scraped all the way along the drivers side of the vehicle or the passenger side of the vehicle.

Officer Sockbeson stated no.

Ms. Porch stated that was not the board. She stated she went to Sutherlands and they showed her the board that Officer Sockbeson had purchased. She stated that he did damage the back of her car and he should have called the police.

Officer Sockbeson stated the statement Ms. Porch received from Sutherlands regarding what he picked up may be true, but he was at Sutherland s three times that day. He did pick up 4 x 8 sheets of ash and on the last trip he picked up the laminate which was the one that caused the damage.

Mayor Fitch questioned if Officer Sockbeson knew specifically that the laminate was the one he had in his possession at the time it struck the vehicle.

Officer Sockbeson stated yes.

Wells questioned the reference in the memorandum that stated the damage was caused by an accident in 2008.

Ms. Porch stated in the claim she stated that she had been in an accident in 2008.

Haywood questioned where the car was hit in 2008.

Ms. Porch stated she was hit on the right side and that had nothing to do with this accident.

Jensen stated that the damage is not in dispute. Staff is claiming that all the officer damaged was the tail light lens and he does not think it is physically possible that he caused the damage on the right side of her car.

Ms. Porch stated Officer Sockbeson did not physically examine her car. He got into his car and left.

Jensen stated they do not believe this board caused these scrapes.

Ms. Porch stated he did not scrape the side of her car, he hit the back of her car and damaged the bumper and the top part of the trunk.

Mayor Fitch stated the pictures show no damage to the deck lid or the rear surface of the bumper.

MOVED by Zarle, SECOND by Shanklin, to approve the damage claim of Flecia and Eric Porch in the reduced amount of \$27.44. AYE: Tennis, Drewry, Burk, Shanklin, Zarle. NAY: Shoemate, Haywood, Wells. MOTION CARRIED.

NEW BUSINESS ITEMS:

28. Consider approving a Resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 2005, pertaining to Chapter 6, Buildings, Construction & Housing, and Chapter 18, Planning & Zoning, by amending the fee and permit length of temporary signs. Exhibits: Resolution No. 10-_____

THIS ITEM WAS STRICKEN.

29. Discuss the legal opinion of the City Attorney s Office on the issue of whether the City of Lawton or the adjoining property owner is responsible for sidewalk repairs within the right-of-ways of the downtown and other areas of Lawton, and provide direction to staff. Exhibits: Legal Opinion Memorandum, Attachment 1 - Plat of the Townsite of Lawton, Oklahoma Territory, Attachment 2 - Overhead picture of downtown Lawton with Numbered blocks and street right-of-ways estimated thereon.

Jensen stated there was a request by the City Manager s office and the Public Works Director to start looking into what we could and could not do to address the condition of sidewalks in the downtown area, primarily on C Avenue where there are some issues. Staff prepared an extensive opinion as to who is responsible for sidewalk repair in the downtown area and it is on the agenda so that staff can receive some direction from the City Council.

Shanklin questioned what staff wanted to do.

Mitchell stated during the budget process they talked about looking at the CIP program to start a fund for sidewalk repair. They included sidewalks as part of any street repair project. He stated they wanted to have a general discussion with the Council about how the Council feels about that topic and whether or not they would like to look at a program to encourage sidewalk repairs primarily in the downtown area and commercial districts. Once improvements are complete on 2nd Street they are looking at doing similar improvements down C Avenue to 11th. In some of those areas the sidewalk is both on the public right of way and on private property. There are also problems with the consistency of the sidewalk. He stated they are looking at some sort of benefit district where both the city and the property owner share the expense of sidewalk improvements. He stated the issue is if the Council wants staff to pursue that kind of a concept or does the Council want staff to start enforcing the code provisions that are outlined in the opinion.

Shanklin questioned if this was going to be put back on the homeowner that does not have any money. The city needs to be benevolent enough to take care of this ourselves. He does not see it any other way.

Mitchell stated the benefit district he is talking about would be primarily commercial development, not residential neighborhoods. He would like to address the issue in the downtown area with existing sidewalks. He stated on some of these properties there is a portion of the sidewalk that is the public right of way and a portion of the sidewalk is on private property. In some cases the building comes right to the property line and in some cases there are buildings in the public right of way.

Shanklin stated if we only take care of the right of way, then it won't match if we don't do it all at the same time.

Mitchell stated that is correct. We would try to do it a block at a time or two or three blocks at a time. You can do this through a benefit district where you share in the cost of making that improvement or the property owner's petition for those improvements to be made.

Jensen stated there are improvement districts in the Oklahoma statutes where the business owners can petition to have their abutting property assessed if they want to participate in a program like this and there is also a provision where the Council could set up a district by resolution. You would have to have a public hearing to allow the property owners to object or approve.

Shanklin questioned how much property they are talking about.

Mitchell stated this is strictly a concept and if the Council would like to pursue this they would start a conversation with downtown business owners to see if there was enough interest by the property owners to participate in this kind of a program. There are currently no funds allocated to a sidewalk program.

Shanklin questioned how much money.

Tenis stated he would like to protect the liability of the City and protect the citizens. He stated they need to be proactive about this issue. Someone is going to trip and fall and they will be kicking themselves because they did not spend a few thousand dollars to fix fifty feet of sidewalk.

Haywood questioned if Councilmember Tenis felt the city should do this or the businesses.

Tenis stated we need to protect ourselves from liability first. He stated there are places downtown where the curbs are falling off.

Wells stated they need to determine if the sidewalk would be legally the business owners or the city's.

Jensen stated they tried to emphasize in the opinion the primary liability on a sidewalk case. The city has responsibility to either do it ourselves or have the abutting property owner take care of it. If we do not have a good defense, the primary liability is going to be on the City of Lawton in the right of way area.

Tenis stated this is a public pathway.

Mayor Fitch suggested that staff look at C Avenue and D Avenue from 2nd Street to 7th Street and put together an overview of the condition of those sidewalks. When they look at fixing the sidewalks they should do something uniform and attractive and where 50% is part of the business owners property, let them participate. They need to focus on a starting point and then they can expand as time goes on. There is no money now to fund the project but it would be great to have some facts and figures put together on a designated area and then they can look at next year's budget.

Wells stated they need to look at the right of way first. They cannot spend money on private property.

Jensen stated that would be a big issue.

Wells stated he would like to see paving districts all over the city. Everyone wants sidewalks in their area.

Mayor Fitch stated this will be a start to addressing the problem where they can and looking at some funding options.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Mayor Fitch introduced COL Erst who is filling in for COL Lacey while he is on vacation.

COL Erst stated they hosted Lawton Public School teachers and administrators on August 5th. He stated on August

12th at 8 p.m. the 88th Military Police Company is having a welcome home ceremony. He stated weather protection shade structures are being installed at the gates over the next few days.

Shoemate encouraged everyone to attend the Lawton Birthday Celebration and Lawton Rodeo.

Tennis reminded everyone that school will be starting next week and watch the school crossings.

Drewry stated there will be a Fit Kids Coalition meeting on August 11 at 12 noon at Gunner Inn.

Burk complimented Gerald Catlett and parks and recreation staff for all their work on field one. He stated this is the way they want all of our ball parks to look. He stated he has received some calls from angry constituents who have not had their sidewalks and drives repaired after city crews have worked on lines. It is a huge problem and their yards a messed up. They need to figure out how to get some people out there or they need to look at contracting this out.

Haywood stated he received a call from residents on Wolf Road regarding water lines. He questioned who is responsible for the water lines.

Ihler stated the city is responsible for the water main. Crews are identifying high maintenance water lines in areas that had smaller lines that are within the city limits. They have identified some that needed to be replaced.

Haywood stated this constituent is not in this group.

Ihler stated they would need to look at that specific area and determine whether it would need to be put on the list.

Haywood requested Ihler explain the procedure of turning in streets that have potholes.

Ihler stated there are two crews that repair potholes and they are given a list of locations from citizens who have called in. Staff will also turn in locations to dispatch. They try to repair a pothole in 48 hours. For street repairs that are called in, they look at the area and determine if it is a high priority.

Zarle requested that the time limitations be added to the information that is distributed with the new trash carts.

Mitchell stated the financial report was distributed with the agenda packets. He stated this is for the year ending June 30, 2010. He stated when you look at combined general and enterprise fund revenues they are at about 102.5% of budget and with expenditures we were under about 5% of budget. He stated we ended the year in great shape.

Mayor Fitch stated he will be on vacation for approximately three weeks.

There being no further business to consider, the meeting adjourned at 7:52 p.m. upon motion, second and roll call vote.

FRED L. FITCH, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK