

Meeting of 2010-8-24 Regular Meeting

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
AUGUST 24, 2010 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor Pro Tem Jay Burk 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 John Butler, Beal Heights Presbyterian Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT: Bill Shoemate, Ward One
Michael Tennis, Ward Two
Janice Drewry, Ward Three
Robert Shanklin, Ward Five
Richard Zarle, Ward Six
Stanley Haywood, Ward Seven
 Doug Wells, Ward Eight

ABSENT: None

PRESENTATION OF CERTIFICATES OF APPRECIATION TO SPONSORS AND VOLUNTEERS WHO PARTICIPATED IN THE AMERICAN BAND MUSIC FESTIVAL ON JULY 2, 3 AND 4, 2010.

Mayor Pro Tem Burk, Kim Shahan, Parks and Recreation Director, and Debbie Sellers, Vice Chairman of Holiday in the Park, presented certificates of appreciation to those who provided various services and assisted in the festival.

REPORT FROM MUSEUM OF THE GREAT PLAINS

John Hernandez, Executive Director of the Museum of the Great Plains, stated the attendance figures for the museum for the past fiscal year indicate that they have had close to 29,000 people visit the museum which included over 7,600 children. More than 3,500 Lawton residents took advantage of their free admission on Sunday. They have received a planning grant from the D.W. Reynolds Foundation in the amount of \$262,000. This was awarded to the museum for financial, strategic and exhibit planning. As a result of this planning grant, they will be able to apply to the Reynolds Foundation for the implementation grant of \$3-4 million to completely renovate the exhibits in the main gallery space. Their goal is to bring new and exciting exhibits to the Lawton community.

AUDIENCE PARTICIPATION:

Teresa Jensen, 6807 NW Willow Springs Drive, stated she is the President of the Lawton Community Theatre Board of Directors. She stated last year the City Council allocated \$25,000 in hotel/motel funds and she is requesting support from the City Council for the current year for an allocation of \$25,000 - \$30,000. The funds will be used to produce quality productions as well as to market the theatre throughout southwest Oklahoma.

Mayor Pro Tem Burk stated the City Council cannot take any action tonight and he would support placing an item on the agenda for September 14th to approve the funding for Lawton Community Theatre.

Zarle suggested they raise the funding level to \$30,000.

Haywood stated he would support \$35,000.

Dave Dixon, 1112 H Avenue, stated he appeared before the City Council in June on behalf of his uncle and his home. He stated his uncle passed away. He was told that if he obtained a building permit he could remodel the property. He was told by staff that he needed a \$50,000 general liability policy which would cost him approximately \$1,000. He told them he had that much cash on hand and could this policy be waived and he was told no. He is requesting that the City Council direct staff to waive this policy.

Wells questioned why this would be necessary if he was doing the work.

Mitchell stated he would check into the issue. He asked that Mr. Dixon call his office the following morning.

Nadine Hanefield, 1214 NW Parkview Blvd, stated she has an issue with her neighbor's grass. She took photos on August 14th of the property which is owned by Mike Corrales. She called neighborhood services in June and the grass got cut. In the middle of July she called neighborhood services twice as well as contacting Councilmember Tennis. A notice was posted on the door on August 2nd. In her photos the grass is above the chain link fence. She stated people have moved in and attempted to cut the yard but they did not cut the west side of the yard. She is requesting some assistance.

Tennis stated this has been an ongoing problem and he sees a problem with the procedure. According to the City Attorney, this is as good as it is going to get. You send out a notice and give the property owner ten days to fix the problem, but that rarely happens. The city contractor goes out and does the job and we send the property owner the bill. He stated they have been adding a citation on top of the cost of mowing the property. It is very frustrating that it takes so long. He has told people to call him when the grass is six inches high because it will be another week before we can act. He stated the grass at this home is five feet high.

Jensen stated the ten day notice is required by state statute and he cannot make it less than ten days. It has to be reported sooner and there has to be more citations written. We cannot change our administrative process because of state statute.

Tennis questioned how much the citations were.

Jensen stated our citations can go up to \$750. He cannot say what the judge would give them for a first offense.

Shoemate stated he carries a tablet in his car and turns in about ten properties a day from across the city.

Mitchell stated we handle between 6,000 7,000 properties a year. A lot of them are the same owner over and over again.

Mayor Pro Tem Burk stated this can be addressed through fines. Going out and mowing is not solving the problem. If you give someone a \$500, \$600 or \$700 fine they will pay attention.

Tennis stated he agrees. If you litter it is a \$750 fine.

Jensen stated he spoke with neighborhood services staff and they do not issue a fine every time. They have the authority, but it depends on the circumstances.

Ms. Hanefield questioned why they don't issue one every time and make it worthwhile in recouping our costs.

Tennis suggested they look at making a bigger impact regarding this issue.

Mitchell clarified that the property address was 1204 NW Oak.

Wells questioned how we collect the fees if we go out and mow a property.

Mitchell stated we send them a notice of fees.

Jensen stated we also put a lien on the property if we don't collect those fees.

Wells stated years ago the Council talked about cutting off the water service.

Tennis stated no one even lives in a lot of these houses.

Wells stated he does not believe they can give a citation on a vacant lot.

Jensen stated we can give a citation on a vacant lot, that is not the real issue. The real issue is are we going to file a foreclosure action on a house that hasn't paid and our lien is a couple hundred dollars. The answer is no, we are not going to do that.

Long stated typically if there is a realty contract with absentee property owners, they are required to maintain that property under that contract. The issue become who do you go after and who should enforce this.

Shanklin stated there is preferential treatment going on.

Tenis stated someone has attempted to mow the front, but they did not mow the back or side yard. He stated he would be mad if he lived where Ms. Hanefield lived.

Mayor Pro Tem Burk suggested they direct staff to give citations and the City Council needs to stick with it when residents come down here wining.

Wells suggested that staff inspect the property on that tenth day and on the eleventh day we tell the contractor to cut it and he has two days to get it cut. When they go through the process it takes two, three or four weeks for the contractor to actually get out and cut it.

Jensen stated there is no way that is going to happen. They are very backlogged on work orders.

Mayor Pro Tem stated the contractors are mowing as fast as they can but there are so many properties and they don t get the order until the grass is five or six feet tall.

Wells stated maybe we need to get more contractors.

Drewry suggested that we bring this issue back and increase the fines.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF AUGUST 10, 2010.

MOVED by Shoemate, SECOND by Tennis, to approve the minutes of the Lawton City Council regular meeting of August 10, 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.

Mayor Pro Tem Burk stated item #4 needs to be considered separately. Wells requested items #3, #5, and #11 be considered separately. .

MOVED by Drewry, SECOND by Shanklin, to approve the consent agenda with the exception of items #3, #4, #5 and #11. AYE: Haywood, Wells, Shoemate, Tennis, Drewry, Burk, Shanklin, Zarle. NAY: None. MOTION CARRIED.

1. Consider adopting a resolution approving the settlement by a joint petition and making payment in the workers compensation claim of Jerry West. Exhibits: **Resolution No. 2010-83**.
2. Consider approving and accepting a one-time donation from the Comanche County Veterans s Council for new park benches to be placed at the Veterans Square (Library Plaza) south of the Lawton Public Library. Exhibits: None.
3. Consider authorizing the Mayor and City Clerk to execute a Cooperative Agreement with Comanche County wherein each exchanges the services of one with the other for the overall good of the citizens of Comanche County and the City of Lawton. Exhibits: Cooperative Agreement.

Wells questioned when the original contract expired.

Jerry Ihler, Public Works Director, stated staff requested the current contract be terminated. The original contract was set up where when the county did work they received credit based on our actual costs. As we made signs for the county, our payback was based on the Oklahoma correctional group that they used to buy signs from and that labor was something like thirty cents an hour. In order to make it a more fair agreement where we receive credit for the value of our work at the same value that they receive credit for their work, they decided to use the FEMA structure for payment on both sides. That was the reason for terminating the last agreement and bringing this new agreement for approval.

Wells questioned if the county had any responsibility for roads in the central district.

Mitchell stated the roads in the city limits are city maintained streets. He stated regarding the tax dollars that go to the county, that is a legislative argument that Mr. Mitchell has been trying to fight for many years.

Mitchell stated the amendment that was made this year on the state level was that the county had to have a

population of 200,000 and there had to be at least two cities in the county with a population of 15,000. We didn't meet that criteria, so we worked very hard to get those population numbers changed without success. He stated that is the limitation on joint projects. The fuel tax dollars get allocated back to the counties, cities get about four cents on the dollar and counties get about thirty two or thirty three cents on the dollar. Comanche County has chosen to allocate those fuel tax dollars to the east and west districts and none to the central district.

Wells stated it is crazy that 80-90% of the money the county has, comes from the city of Lawton and we don't get any benefits.

MOVED by Wells, SECOND by Drewry, to approve a Cooperative Agreement with Comanche County. AYE: Wells, Shoemate, Tennis, Drewry, Burk, Shanklin, Zarle, Haywood. NAY: None. MOTION CARRIED.

4. Consider adopting a Resolution authorizing the installation of traffic control measures on: Eastbound and westbound SW Angelwood Drive at the intersection of SW Brentwood Boulevard; eastbound and westbound SW Rolling Hills Drive at the intersection of SW 44th Street; eastbound and westbound SW Texas Avenue at the intersection of SW Jesse L. Davenport Street; and on the south side of SW A Avenue east of SW 7th Street. Exhibits: Resolution No. 10- ____, Traffic Commission Minutes and Traffic Issue Request.

Mayor Pro Tem Burk stated Pastor Bill Schneider had requested to speak on this item.

Ihler stated the first three items are routine and the fourth is the item Pastor Schneider is concerned about.

Pastor Bill Schneider, St. John Lutheran Church, 102 SW 7th, stated the Traffic Commission is recommending that they take two parking spaces away from the front of his church. They would like to propose that those two spaces become blue lined for handicapped parking for evening and weekend use so that they would not impact a crossing zone between St. Mary's school and their pre-school. If they make these parking spots handicapped, some of their elderly members would not have a far distance to walk during functions in the evenings and on the weekends.

Shanklin stated he sees no problem with this request.

Ihler stated a Traffic Commission member received a request from a parent whose child attends St. Mary's school. He stated there is a crosswalk at mid block and on the south side there are seven parking spaces in front of St. John's church and two spaces come right up against the crosswalk. When vehicles are parked in those two spaces people who are traveling eastbound cannot see the people at the crosswalk. Their sight distance is blocked. Also people standing at the crosswalk cannot see the vehicles coming. He stated there are events at both churches during the evening hours and weekends and there are people crossing during those hours and if cars are parked in those spaces, you cannot see them. He stated the recommendation is not only for the protection of the children during the day but also for the protection for anyone who uses it at any time. He stated they are also concerned about those coming out of the St. John's parking area and those vehicles cannot see people coming from the east because of the obstructed view.

Drewry suggested that they take two of the remaining five spots and make them handicapped spots.

Ihler stated that would work but that is not what St. John's is requesting. They would like to keep all of the parking spaces.

Drewry stated she is concerned about the children and if this is blocking their view.

Pastor Schneider stated he first requested that the crosswalk get moved to the end of the block but the school wanted to keep that convenience. He stated he does not see people crossing the street during church time.

Shoemate questioned why they couldn't move the crosswalk to 6th and A Avenue.

Ihler stated you have elementary school children using this during the day. He feels that there would be more traffic to watch for if they moved it to the corner. There would be five points of conflict from the corner and with the crosswalk there are only two points, east and west.

Mayor Pro Tem Burk stated he would hate to see a child get hurt because they failed to eliminate a couple of parking spaces.

MOVED by Drewry, SECOND by Shoemate to approve **Resolution 10-84** as recommended by the Traffic Commission. AYE: Shoemate, Tennis, Drewry, Burk, Zarle, Haywood, Wells. NAY: None. ABSENT: Shanklin. MOTION CARRIED.

5. Consider approving a credit adjustment in the amount of \$2,239.80 to Dr. Richard Brittingham's service account #00003187 for the property at 6702 NW Grayson's Mountain Drive for an undetected, underground leak on the customer's water service line. Exhibits: Pierce & Sons invoice dated 5/21/2010.

Wells questioned at what point do you know you have a leak? He stated it seemed that if you are losing 25,000 gallons a day you would lose water pressure.

Ihler stated you should see a drop in water pressure.

Wells stated we need to do something to figure out when people have leaks. We can see on an hourly basis when someone is using water.

Mayor Pro Tem Burk stated some people just let it go until they get their bill. He stated they did put a limit on the credit a customer can receive from the City of Lawton. He stated these are becoming very costly.

Drewry stated she is pretty sure Dr. Brittingham did not notice this.

Zarle stated he would think this would send up a red flag somewhere.

Rick Endicott, Finance Director, stated staff did notify the customer of the leak. Staff cannot monitor 30,000 accounts on a daily basis. They try their best. No one ever promised that with the new system they would be able to detect every leak on the day the leak started.

Drewry suggested they give a credit of half this amount.

Endicott stated the City Council approved an ordinance that gives 1 times the customer's average bill over a twelve month period. There is a formula they use and there are some restrictions within the code. He stated he wishes they could reduce the unaccounted for loss.

Barbara Curran, Revenue Services, stated the maximum on a service line leak is two months worth of bills. They only adjust two bills. For unexplained consumption they adjust 1 times their average monthly consumption and they can only have one of those adjustments once every twelve months.

Wells stated staff could write a quick program that reads the daily reading file that runs from 12 am and shows those accounts that had activity every hour.

MOVED by Wells. SECOND by Drewry to approve a credit adjustment in the amount of \$2,239.80 to Dr. Richard Brittingham. AYE: Tennis, Drewry, Burk, Shanklin, Zarle, Haywood, Wells, Shoemate. NAY: None. MOTION CARRIED.

6. Consider approving a credit adjustment in the amount of \$753.52 to Mitchell Rhoades service account #00028809 for the property at 1814 SW 11th Street for an undetected, underground leak on the customer's water service line. Exhibits: B.P. Burk invoice dated July 16-19, 2010.

7. Consider acknowledging execution of a permanent access easement from Tommy G. and Treasea D. Morris for access needed for the NW 38th Street (Gore Blvd. to Cache Road) Project #2006-7, and authorizing payment for the same. Exhibits: Permanent access easement is on file in the Engineering Division's office.

8. Consider acknowledging receipt of Tier I permits from the Oklahoma Department of Environmental Quality for the construction of 2,368 linear feet of 10-inch PVC waterline, 4,137 linear feet of 8-inch PVC water line, 2,414 linear feet of 12-inch PVC sanitary sewer line, 7,558 linear feet of 8-inch PVC sanitary sewer line, and all appurtenances to serve Eastlake Addition, Part 3 located north of Cache Road and east of 45th Street in the SE/4 of Section 22, T2N, R11W, Comanche County, Oklahoma. Exhibits: Permits to Construct on file in the City Clerk's Office.

9. Consider approving the Replat of Lots 24 and 25, Block 8, Runyon Hill Side Addition, Part 3. Exhibits: Plat Map.

10. Consider accepting waterline, sanitary sewerline, offsite access improvements, public utility easement and a maintenance bond to serve Stonegate Skilled Nursing Facility located at 7502 NW Quannah Parker Trailway. Exhibits: Location Map. Easement and Maintenance Bond on file in City Clerk's Office.

11. Consider awarding (RFPCL 10-049) Banking Services to IBC Bank of Lawton, OK. Exhibits: Department Recommendation, Proposal Packets on file with Financial Services.

Wells stated he failed to read the commentary which said the bid packets were on file.

Endicott stated that IBC has provided excellent service over the past several years and they provided a bid that was better than the other three banks.

MOVED by Wells, SECOND by Tennis to award (RFPCL 10-049) Banking Services to IBC Bank of Lawton, OK. AYE: Drewry, Burk, Shanklin, Zarle, Haywood, Wells, Shoemate, Tennis. NAY: None. MOTION CARRIED.

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

Building Development Appeal Board

Dan Tucker
Residential Homeowner
6916 SW Beta
Lawton, Oklahoma 73505
08/24/2012

Industrial Development Authority

Michael Tennis
1710 NW Cherry Avenue
Lawton, Oklahoma 73501
08/24/15

13. Consider approval of payroll for the period of August 9 - 22, 2010.

NEW BUSINESS ITEMS:

14 Hold a public hearing and consider an ordinance creating Sections 18-5-5-555.1 and 18-5-6-568, Chapter 18, Lawton City Code, 2005, establishing screening requirements when developing land zoned R-3 Multiple-Family Dwelling District and R-4 High Density Apartment District adjacent to R-E Residential Estate District, R-1 Single-Family Dwelling District, R-2 Two-Family Dwelling District, and single-family or two-family residential uses, and declaring an emergency. Exhibits: Ordinance No. 10-___ and CPC Minutes.

Richard Rogalski, Planning Director, stated on May 27, 2010, the City Planning Commission directed staff to prepare an ordinance establishing screening requirements between low density residential and high density residential. Currently the code requires screening between commercial use and residential use and it also requires screening between a parking lot of more than five vehicles and a residential use but it didn't require the screening between the high and the low density residential. The proposed ordinance establishes screening requirements similar to the screening requirements when a commercial district is adjacent to a residential district. The proposed ordinance requires screening not less than six feet nor more than eight feet high when R-3 or R-4 zoning districts abut, adjoin, or are adjacent to R-E Residential Estate District, R-1 Single-Family Dwelling District, R-2 Two-Family Dwelling District or any single-family or two-family residential use. Screening is not required when an R-3 or R-4 district abuts an R-E, R-1, or R-2 district at the centerline of a street or when a street separates any single-family or two-family residential use from the R-3 or R-4 district.

Tennis requested a hypothetical situation where this may apply.

Rogalski stated there was a recent rezoning on H Street where there was an apartment complex going in and the parking was in front of the building and there was single family residential to the north. There was an assumption that there would be a screening requirement between the single family use and the apartment complex, but there was none in the current code. The applicant put this on the site plan but there was no code requirement.

Wells questioned what this will do.

Rogalski stated the screening will provide a visual and sound buffer.

Wells stated when the apartments on Gore past 67th were built there were two or three story apartments and it then becomes a privacy issue because screening doesn't do anything. He is not sure this will make a difference.

Rogalski stated this is not a protect all. He stated they have created a site plan ordinance that now will require a 2 story building to be at least 2 stories away, the same distance away from the property line. He stated this ordinance does provide for a barrier for ground level activity.

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

MOVED by Drewry, SECOND by Tennis, to adopt **Ordinance 10-31**, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Burk, Shanklin, Zarle, Haywood, Wells, Shoemate, Tennis, Drewry. NAY: None. MOTION CARRIED.

An ordinance pertaining to zoning creating Sections 18-5-5-555.1 and 18-5-6-568, Chapter 18, Lawton City Code, 2005, establishing screening requirements when developing land zoned R-3 Multiple-Family Dwelling District and R-4 High Density Apartment District adjacent to R-E Residential Estate District, R-1 Single-Family Dwelling District, R-2 Two-Family Dwelling District, and Single-Family or Two-Family Residential uses; providing for codification, providing for severability, and declaring an emergency.

15. Consider approving a Resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 2005, pertaining to Chapter 7, Business, and Chapter 18, Planning & Zoning, by amending the fee and permit length of temporary signs. Exhibits: Resolution No. 10-_____.

Bryan Long, Assistant City Manager, stated this section of the code has been incorrect since the code was codified in 2005. This is a change to move the sign permits from the improper code section to the proper code section.

Wells stated they were also raising fees from a minimum of \$10 to \$25. He questioned what type of signs they were talking about.

Rogalski stated it is .35% of cost with a minimum of \$25.

Tenis stated some of these signs cost \$10,000 or \$15,000.

Long stated these are temporary or portable signs.

Shoemate stated he has seen some semi trailers with banners across the city. He thought they had been banned.

Long stated staff has issued citations in the past when they receive complaints.

Wells questioned if Holy Family church would have to pay the permit fee for their church bazaar sign.

Long stated he is not sure but felt that they probably would be recognized as an exemption under our sign code. There are some specific exemptions, political signs being one. He stated realty signs do not fall under the same provision as portable signs.

Wells questioned if realty signs were considered temporary signs.

Long stated no.

Wells suggested they table this until they found out the exemptions.

Jensen stated there is a discrepancy between what is in the code and the way they are operating right now. He suggested they go ahead and approve this and look at the exemptions separately.

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

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

COL Erst stated the Fort Sill MWR is partnering with Cameron University for a rock concert on Saturday, August 28th at Cameron Stadium.

Drewry encouraged everyone to watch out for children in school zones.

Shoemate stated he has been notified that he has been selected as one of the top 50 Native Americans in Oklahoma and he will go to Oklahoma City on Monday to receive the award.

Shanklin stated he will be a candidate for another term as ward five councilmember.

Mitchell stated that after two years, we have finally received the \$500,000 BEDI grant that will be used for the downtown project. He distributed a chart of estimated increase in population growth, by wards, since January 2005. He stated the growth since 2005 is a little over 7,100 people. He stated this may help the redistricting committee when the census information arrives.

The Mayor and Council convened in executive session at 7:34 p.m. and reconvened in regular, open session at 7:40 p.m. Roll call reflected all members.

BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

16. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session for the semiannual performance employee review of Traci L. Hushbeck as City Clerk, and in open session take other action as necessary. Exhibits: None.

Mayor Pro Tem Burk stated it was the consensus of the Council the Ms. Hushbeck is doing a wonderful job. No action is needed.

There being no further business to consider, the meeting adjourned at 7:41 p.m. upon motion, second and roll call vote.

JAY BURK, MAYOR PRO TEM
ATTEST:

TRACI HUSHBECK, CITY CLERK