

Meeting of 2010-9-14 Regular Meeting

MINUTES  
LAWTON CITY COUNCIL REGULAR MEETING  
SEPTEMBER 14, 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

Mayor Fitch called the meeting to order at 6:10 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Associate Pastor Gary Pratt, First Assembly of God, 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

PRESENTATION OF SEPTEMBER 2010 CITIZEN OF MONTH TO DELORES RAPHEL.

Sandra Kuntz, Chairman, Mayor's Commission on that Status of Women introduced Delores Raphel as the citizen of the month for September 2010.

Mayor Fitch presented a Certificate of Congratulations from the State of Oklahoma, and a Certificate of Commendation from the Mayor's Office.

PRESENTATION OF CERTIFICATES OF APPRECIATION FROM MAYOR'S COMMISSION ON THE STATUS OF WOMEN

Mayor Fitch presented certificates of appreciation to outgoing officers and members.

PRESENTATION OF CERTIFICATE OF APPRECIATION FOR COMANCHE COUNTY VETERANS COUNCIL

Mayor Fitch presented a certificate of appreciation to members of the Comanche County Veterans Council who have donated park benches to be placed throughout the city.

PRESENTATION OF PROCLAMATION FOR CONSTITUTION WEEK

Mayor Fitch proclaimed September 17-23, 2010 as Constitution Week.

AUDIENCE PARTICIPATION:

Rebecca Spencer, 5223B Conklin Road, Fort Sill, stated she attended the Parks and Recreation Board meeting the night before regarding football player placement for elementary football. She requested that when choosing members for this board that they remember what they do in the community. She feels that coaches do not deserve to be on the board. It would not provide for an unbiased decision making process. She stated some children were turned down when they had just cause. She stated equal consideration should be taken for each case and when coaches sit on the board it is very hard to get an unbiased decision. She stated her son was denied the opportunity to play for the team he wanted and that is not fair. She questioned if there was an appeal process she could go

through. She stated they also had to wait an hour and a half to even get a quorum to start the meeting.

Mayor Fitch stated the low attendance of some of the members is a concern. He stated they will enforce the issue of unexcused absences in the future. He stated they need good citizens to serve on these public boards and authorities.

Tenis stated it is hard to find people to serve on these boards.

Wells questioned if there was an appeal process for Ms. Spencer.

Kim Shahan, Parks and Recreation Director, stated there are over 115 kids in football this year that did not have a place to play. Based on their situation they could go to any school they needed to. He stated that Mrs. Spencer's son has a team at his school. The fifteen requests at the meeting last night wanted an exception to the rule. The process is that if they have requests for a placement, they meet with the Parks and Recreation board members who will decide if these are hardship cases. He stated nine requests were approved and eight were denied. The eight that were denied were because they have a team and there were no hardship reasons. He stated that everyone agreed to wait until they had a quorum and not reschedule the meeting.

Drewry questioned how many board members were coaches.

Shahan stated he does not think there are any that are currently coaches.

Drewry stated she believes the goal is that every child should be playing.

Shahan stated everyone is getting the opportunity to play. No one was denied the opportunity to play. He stated he does not believe that there were any biased decisions made at the meeting. They deliberated over every request and tried to come up with a solution.

Haywood stated he would prefer to have someone that has coached on this board because they have some experience in sports. He stated there are rules and regulations that must be followed.

Burk stated that little league sports is too political. He agreed that coaches with kids at the level should not be on the board because there is a conflict of interest.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF AUGUST 24, 2010.

MOVED by Drewry, SECOND by Tenis, to approve the minutes of the Lawton City Council regular meeting of August 24, 2010. AYE: Tenis, Drewry, Burk, Shanklin, 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.

Mayor Fitch stated items #9, #10, #13 needs to be considered separately and items #23 and #30 have been stricken from the agenda. Shoemate requested #15 and Wells requested items #10, #21, #23 and #27 considered separately. Shanklin requested items #24, #27, #34 and #35 be considered separately.

MOVED by Drewry, SECOND by Haywood, to approve the consent agenda with the exception of items #9, #10, #13, #15, #21, #23, #24, #27, #30, #34, #35. AYE: Drewry, Burk, Shanklin, Zarle, Haywood, Wells, Shoemate, Tenis. 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: Neal and Dorothy Goode in the amount of \$83.30 and Debbie Martin of Johnny Owens Commercial Properties on behalf of Bethlehem Baptist Church Rental Properties in the amount of \$25,000.00 (**Res. 10-85**). Exhibits: Legal Opinions/Recommendations and

Resolution 10-\_\_.

2. Consider the following damage claims recommended for denial: Abraham and Delia Salazar in the amount of \$650.00. Exhibits: Legal Opinion/Recommendation.

3. Consider adopting a resolution ratifying the action of the City Attorney and the City Manager in directing our third party administrator to make payment on the judgment in the Workers' Compensation case of Steven Bowen in the Workers' Compensation Court, Case No. 2008-12566J. Exhibits: **Resolution No. 2010-86**.

4. Consider adopting a resolution ratifying the actions of the City Attorney in filing and making payment of the

judgment in the Workers' Compensation case of Dwight Franklin in the Workers' Compensation Court, Case No. 2008-09721R. Exhibits: **Resolution No. 2010-87.**

5. Consider adopting a resolution ratifying the action of the City Attorney and the City Manager in directing our third party administrator to make payment on the judgment in the Workers' Compensation case of Jack Crabtree in the Workers' Compensation Court, Case No. 2009-03825H. Exhibits: **Resolution No. 2010-88.**

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

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

8. Consider approving the deposit of a reimbursement check from Thomson-West, in the amount of Two Hundred Twenty-Four and No/100 Dollars (\$224.00) into City Attorney s 264 Dues and Memberships Account. Exhibits: Thomson-West reimbursement check.

9. Consider receiving a donation as a gift from the Humane Society (materials used to construct the dog park) for McMahan Park. Exhibits: Posted language on the Informational Sign.

Shahan stated he would like to acknowledge the contribution from the Humane Society and Phyllis Robertson who initiated the project. He stated the dog park will open on Saturday.

Ms. Robertson stated the community is already using the dog park. She thanked the McMahan Foundation for setting aside the land for the park. She thanked LETA and MGR Baxter for providing the funding. She has also received private donations from the community. The ribbon cutting will be held on Saturday, September 18<sup>th</sup> at 10:00 a.m.

Haywood stated that they really wanted this in ward 7 and it is very important for dogs to have a place to roam. He thanked Ms. Robertson for all her hard work.

MOVED by Burk, SECOND by Drewry, to receive a donation as a gift from the Humane Society (materials used to construct the dog park) for McMahan Park. AYE: Burk, Shanklin, Zarle, Haywood, Wells, Shoemate, Tennis, Drewry. NAY: None. MOTION CARRIED.

10. Consider approving an Agreement between the Lawton Community Theater and the City of Lawton to fund activities by the Theater designed to encourage, promote and foster tourism and economic development in the City of Lawton, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Agreement with Attached Budget.

Jensen stated at the last council meeting he was asked to bring back a contract for \$35,000 for this organization. The funding source was to be the tourism account from hotel/motel tax funding. There was only \$33,749 left in that tourism account. He suggested the remaining \$1,251 come out of the council contingency fund. He stated the Lawton Heritage Foundation came forward at the same point as the Lawton Philharmonic requested funding. The Lawton Heritage Foundation has not been funded because they have not submitted their proposed budget to city staff to complete the contract. He stated they have not submitted that budget and have requested \$10,500. He questioned how the council would like to handle this additional funding request.

Haywood stated this should not be a problem to fund Lawton Heritage Foundation.

Burk questioned how much money was in the council contingency fund.

Mitchell stated the budget is \$50,000. He stated they need to think about how these allocations will be made in the future. He suggested they have a process similar to how we handle block grant funding.

Burk stated that these organizations didn t know when to come to the council to ask for funding.

Rick Endicott, Finance Director, stated that staff is going to recommend that the \$10,500 for the Lawton Heritage Foundation be taken out of the council contingency fund. He feels they have already obligated those funds to that group and they need to officially fund it.

Shanklin stated that if they have the money they need to fund these groups. He questioned if they could transfer some more funds from hotel/motel.

Mitchell stated no. The council passed a resolution that allocated 5% to tourism.

Shanklin questioned if they could change that 5%.

Mitchell stated yes, but they would have to take it from some other allocation.

Mayor Fitch stated the money allocated for tourism will now be used up. He stated next year during the budget process all of these entities need to come with budgets and funding requests and at that time the council needs to look at the total requests and determine the distribution of funding. No other requests will be available the rest of the year.

Wells stated they are only projecting what will come in as far as hotel/motel funding, so there might not even be this much funding for the year.

Burk stated they look at the funding from the previous year and it should increase.

Mitchell stated they assume it will increase but the money is collected throughout this year.

Endicott stated the hard number is what is carried over from the previous year. The rest is projected based upon what was collected the previous year.

Wells questioned if the 5% for tourism was based the \$1.4 million or is it based on a number from last year.

Endicott stated it is based on the projected number plus the carry over.

Burk stated the carry over just kept getting bigger and bigger and that is why they came up with this formula so that some of these organizations could tap into that hotel/motel money. He stated this is working.

MOVED by Drewry, SECOND by Haywood, to approve an Agreement between the Lawton Community Theater and the City of Lawton to provide \$35,000 with \$33,749 out of tourism funds and \$1,251 to be taken out of the council contingency fund. AYE: Shanklin, Zarle, Haywood, Shoemate, Tennis, Drewry, Burk. NAY: Wells. MOTION CARRIED.

11. Consider approving an Emergency Management Memorandum of Understanding with the Great Plains Technology Center, which establishes a formal working Mutual-Aid relationship between Great Plains Technology Center and the City of Lawton in support of Emergency Management planning, response and recovery programs. Exhibits: Emergency Management Memorandum of Understanding is on file in the City Clerk s Office.

12. Consider approving an Emergency Management Memorandum of Understanding with the Cameron University, which establishes a formal working Mutual-Aid relationship between Cameron University and the City of Lawton in support of Emergency Management planning, response and recovery programs. Exhibits: Emergency Management Memorandum of Understanding is on file in the City Clerk s Office.

13. Consider adopting a Resolution in Support of the Goodyear Tire & Rubber Company for their contributions to our community and supporting the expansion and future growth in the City of Lawton, and authorize the Mayor and City Clerk to execute the same. Exhibits: Resolution 10-\_\_ and Correspondence dated May 24, 2010.

Mayor Fitch introduced Jimmy Cagle and Linda Madden from Goodyear.

Ms. Madden stated on behalf of Goodyear Tire and Rubber Company, they would appreciate council consideration of the resolution of support. This resolution is a requirement of the State of Oklahoma so that they can acquire funding to help with the current expansion of the plant.

Mr. Cagle stated there is no financial obligation on behalf of the City but the state requires a show of local support for the bond issue with the state.

Mayor Fitch stated last year \$692,000 was donated by Goodyear and their associates to the Lawton United Way. They are projecting over \$700,000 this year. They have an economic impact on this community of \$1.2 billion annually. There has been some type of expansion going on in that plant since it was built in 1978-1979.

MOVED by Tennis, SECOND by Shoemate, to adopt **Resolution 10-89** in Support of the Goodyear Tire & Rubber Company for their contributions to our community and supporting the expansion and future growth in the City of Lawton. AYE: Zarle, Haywood, Wells, Shoemate, Tennis, Drewry, Burk, Shanklin. NAY: None. MOTION CARRIED.

14. Consider and take action with respect to a resolution approving and authorizing the Mayor to sign on behalf of the City an agreement with the Waurika Lake Master Conservancy District (The District) and approving action taken by the Lawton Water Authority approving such agreement, which agreement will serve as a part of the security for a loan to the District from the Oklahoma Water Resources Board for the purpose of acquiring additional water storage capacity at Waurika Lake and certain water system improvements; and containing other provisions related thereto. Exhibits: **Resolution 10-90**. Addendum to contract between Waurika Lake Master Conservancy District, City of Lawton and Lawton Water Authority is on file in the City Clerk's Office.

15. Consider approving the request from Kent Waller, concessionaire, School House Slough, Inc.; for certain electrical improvements and construction upgrade improvements to these designated campsites (Campers 1-33) at School House Slough. Exhibits: Letter of request from Kent Waller, School House Slough, Inc.

Shoemate questioned if this was going to extend the contract and questioned if we were going to have to pay out more money when his contract runs out if this is approved.

Kim Shahan, Parks and Recreation Director, stated the contract comes up for renewal on December 31, 2012. The Lakes and Lands Commission will be reviewing this contract associated to the existing operations right now prior to 2012. He stated staff is recommending approval because these improvements are needed for the campsite. He stated the amount of money for improvements is approximately \$121,000. The electrical upgrades are \$52,000 and the pads are \$68,000.

Burk questioned if this went before the Lakes and Lands Commission.

Shahan stated yes and they unanimously approved this project.

Wells questioned if this extended the contract.

Shahan stated the contract goes up to 2012 with another five year extension which will have to be approved by the council. He stated this item is just for upgrade improvements.

Shoemate stated he is concerned about the extension and the buyout clause.

Jensen stated the position of Mr. Waller and his attorney is that the City of Lawton is required to buy him out. The lease provision says that a new or succeeding lessee will be required as a precondition at being granted a lease on the lease premises to purchase all the buildings and improvements based on their structural value. If the City of Lawton decides to bid this out to a new or succeeding lessee, they have to come to an agreement on a fair market value. This does not say that the City of Lawton is required to buy them out. He is not going to discuss that in an open meeting, but he will discuss that in executive session.

Shanklin stated the contract Mr. Waller got was not the one that he helped work up. He would only be allowed to recover those monies that he could prove he spent.

Jensen stated the language says that there will be an appraisal from three independent appraisers. The appraisal shall be based on structural value appraisal method with the new lessee paying the current lessee only for the value of the buildings and improvements and not on an income producing appraisal method. The cost of determining the structural value of the building shall be born equally between the lessor and the lessee.

Shanklin questioned if it has said that forever.

Jensen stated it has said that since 1997.

Shanklin stated this is our number one resource and for one person to have a monopoly on that, it was explicitly stated that he would not, nor would anyone else.

MOVED by Shoemate, to deny.

Jensen stated that the contract states that no alterations of any kind shall be made without the prior written consent of the lessors. Which consent shall not be unreasonably withheld. This means that the council has an obligation under these contract terms to give Mr. Waller fair consideration for this request. The consent cannot be unreasonably withheld. There needs to be a legitimate reason to deny this request because that is what is required by the contract.

Mayor Fitch stated this is not an unreasonable request and it is a vital upgrade. He stated Mr. Waller is entitled to request this.

Jensen stated the council is legally obligated to give reasonable consideration to this request. If the council does not feel this is reasonable, like the request for the dry stalls, they can deny the request .

Shanklin stated a reasonable request would be that the council would know how much money was put into that project and that is all Mr. Waller can get out of it. He does not own that land and he got it for absolutely nothing.

Shoemate stated that since they are stuck with this contract he will rescind his motion.

Burk stated the Lakes and Lands Commission felt that these things needed to be done. He feels they need to approve this.

Shanklin stated this means that he can go up on his retail prices. This was not done right.

Jensen stated this issue will come up soon as an executive session item to discuss the options.

Shanklin stated whenever this individual got this, the man that could have bid it so that there would have been some competition, was going to Japan on a baseball project. There was only one bidder. He didn't like it then and he does not like it tonight.

Drewry stated since this is electrical she feels this needs to be done.

MOVED by Burk, SECOND by Drewry, to approve the request from Kent Waller, concessionaire, School House Slough, Inc.; for certain electrical improvements and construction upgrade improvements to these designated campsites (Campers 1-33) at School House Slough. AYE: Haywood, Wells, Shoemate, Tennis, Drewry, Burk, Zarle. NAY: Shanklin. MOTION CARRIED.

16. Consider accepting donation of seven (7) police equipped bicycles for Lawton Police Department from the Ft. Sill-Apache Casino. Exhibits: None.

17. Consider approval of two Federal Aviation Administration grant offers for the Lawton-Ft Sill Regional Airport in the amount of \$90,221.50 for a Wildlife Hazard Assessment and \$616,244.10 for a new Aircraft Rescue and Firefighting (ARFF) vehicle. Exhibits: None.

18. Consider approving Change Order # 1 for the Rehabilitation of Old Lawton High School Phase III Parking Lots (F.A. Project No. STP-116E(177)EH, State Job Piece Number 26406(04)) subject to approval by the Oklahoma Department of Transportation. Exhibits: Contract Change Order No. 1.

19. Consider approving Phase II of the Proposed Cooperative Program and Memorandum Agreement between 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).

20. Consider awarding a contract for the purchase of poly sewer pipe as part of the Sewer Rehab Stimulus Project ORF-09-0015-CW. Exhibits: None.

21. Consider awarding a construction contract to T & G Construction, Inc. for the NW Gore Boulevard Overlay Project #2010-8. Exhibits: None.

Shanklin questioned why there was only one bid and why we could not get more competition.

Jerry Ihler, Public Works Director, stated this is a mill and overlay project and not a lot of contractors have the machinery. Staff did personally contact a company in Wichita Falls and Altus who had reasons for not bidding.

Shanklin stated he is not against T & G, but it bothers him that we cannot get more competition.

Tennis questioned why this street was chosen.

Ihler stated this came before the council in July. They chose this street because of the condition and they would like to see Gore Boulevard done from 17<sup>th</sup> to 67<sup>th</sup> with this mill and overlay. They are hoping that each year they can do a mile.

MOVED by Drewry, SECOND by Zarle, to award a construction contract to T & G Construction, Inc. for the NW Gore Boulevard Overlay Project #2010-8. AYE: Wells, Shoemate, Tennis, Drewry, Burk, Shanklin, Zarle, Haywood. NAY: None. MOTION CARRIED.

22. Consider accepting a permanent easement and a temporary easement from Wade J. Vardeman for right of way needed for the NW 82<sup>nd</sup> Street Sewer Line Project #2010-4, authorizing the Mayor and City Clerk to execute the

documents and authorizing payment for the same. Exhibits: Documents are on file in the City Clerk's office.

23. Consider awarding a professional services contract to Zia Corporation for the purpose of providing environmental engineering services for the City of Lawton and authorize the Mayor and City Clerk to execute the contract. Exhibits: Retainer Agreement for Professional Engineering Services.

**THIS ITEM WAS STRICKEN.**

24. Consider awarding a construction contract to A. E. Construction for the 2008 CIP Residential Streets Phase 3 Project #2010-3. Exhibits: None.

Shanklin questioned who was A. E. Construction.

Mayor Fitch stated Alfred Espinoza.

MOVED by Shanklin, SECOND by Zarle, to award a construction contract to A. E. Construction for the 2008 CIP Residential Streets Phase 3 Project #2010-3. AYE: Shoemate, Tennis, Drewry, Burk, Shanklin, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

25. Consider adopting a Resolution of Necessity for real property acquisition for the NW 82nd Street Sewer Line Project #2010-4. Exhibits: **Resolution 10-91**, Resolution 10-\_\_\_\_\_ with Exhibit A is on file in the Engineering Division Office.

26. Consider accepting a permanent easement from Woodland Hills Townhouse Association, Inc., for right of way needed for the NW 82<sup>nd</sup> Street Sewer Line Project #2010-4, authorizing the Mayor and City Clerk to execute the document and authorizing payment for the same. Exhibits: Permanent easement is on file in the City Clerk's Office.

27. Consider accepting a permanent easement and a temporary easement from Schutz Farm, L.L.C. for right of way needed for the NW 82<sup>nd</sup> Street Sanitary Sewer Project #2010-4, authorizing the Mayor and City Clerk to execute the documents and authorizing the Mayor to sign a thank you letter. Exhibits: Easements are on file in the City Clerk's office.

Shanklin stated he just wanted everyone to be aware that they have donated this property to us. It will not cost the taxpayers a penny.

MOVED by Shanklin, SECOND by Wells, to accept a permanent easement and a temporary easement from Schutz Farm, L.L.C. for right of way needed for the NW 82<sup>nd</sup> Street Sanitary Sewer Project #2010-4. AYE: Tennis, Drewry, Burk, Shanklin, Zarle, Haywood, Wells, Shoemate. NAY: None. MOTION CARRIED.

28. Consider approving the construction plat for Eastlake Addition, Part 3A subject to conditions. Exhibits: Plat Map.

29. Consider approving the construction plat for the Replat of Block 9, Eastlake Addition, Part 2, subject to conditions. Exhibits: Plat Map.

30. Consider approving the record plat for The Meadows and accepting the improvements and maintenance bond. Exhibits: Plat Map. Maintenance Bond on file in City Clerk's Office.

**THIS ITEM WAS STRICKEN.**

31. Consider accepting NE Angus Place, which is located north of Rogers Lane and west of Pioneer Park Elementary School. Exhibits: Location Map and Easement.

32. Consider extending (RFPC09-008) Emergency Notification System to Emergency Communications Network Inc. of Ormond Beach, Fl. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.

33. Consider extending (RFPC09-038) Non-Exclusive Recycling Center Operation to Horn Sanitation of Lawton, Ok. Exhibits: Department Recommendation, Contract Extension Form.

34. Consider awarding (CL10-052) Electric Motor Repair to J & W Electric Motor Repair of Lawton, OK. Exhibits: Department Recommendation, Abstract of Bids.

Shanklin stated items #34 and #35 have the same numbers. He questioned if someone has made a mistake.

MOVED by Shanklin, SECOND by Tennis to award (CL10-052) Electric Motor Repair to J & W Electric Motor Repair of Lawton, OK. AYE: Drewry, Burk, Shanklin, Zarle, Haywood, Wells, Shoemate, Tennis. NAY: None. MOTION CARRIED.

35. Consider awarding (CL10-051) Hydraulic Pump & Cylinder Repair to Horizon Hydraulics of Oklahoma City, OK. Exhibits: Department Recommendation, Abstract of Bids.

MOVED by Shanklin, SECOND by Drewry to award (CL10-051) Hydraulic Pump & Cylinder Repair to Horizon Hydraulics of Oklahoma City, OK. AYE: Burk, Shanklin, Zarle, Haywood, Wells, Shoemate, Tennis, Drewry. NAY: None. MOTION CARRIED.

36. Consider approving contract extension on month to month basis for (RFPCL08-007) City Employee Accidental Death Insurance to Zurich North America of Chicago, IL. Exhibits: Human Resources Memo, Letter from Zurich.

37. Consider extending (CL09-009) Degreaser to Mid American Research Chemical of Windthorst, TX. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.

38. Consider awarding (CL11-002) Nuisance Abatement-West Side to The Lawn Wizards of Lawton, OK. Exhibits: Department Recommendation, Abstract of Bids.

39. Consider extending (CL10-008) Fluorosilicic Acid to Pencco, Inc. of San Felipe, TX. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.

40. Consider extending (RFPCL10-001) Employee Physicals/Drug Screen Testing-Section B-Drug and Alcohol Testing to Allied Health Research Laboratory of Lawton, OK. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.

41. Consider extending (RFPCL10-001) Employee Physicals/Drug Screen Testing-Section A-Physicals to Comanche County Memorial, The Center for Occupational Health of Lawton, OK. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.

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

#### **Building Development Appeals Board**

Dan Tucker Larry Adair  
6916 SW Beta Ave 15 SW Bishop Road  
Lawton, OK 73505 Lawton Oklahoma 73501  
09/14/2012 09/14/2012

Arthur Patrick  
6210 NW Oak Ave  
Lawton, OK 73505  
09/14/2012

#### **Lawton Enhancement Trust Authority**

Michael Tennis  
Council Term  
1710 NW Cherry Avenue  
Lawton, Oklahoma 73501

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

Jan Landrum Victoria E Wisnom  
Ward 4 Ward 8  
3004 NE Kingsbriar Drive 2605 NW Cedric Circle  
Lawton, Oklahoma 73501 Lawton Oklahoma 73505  
09/14/12 09/14/12

Rosita Pamplin  
Ward 2  
1814 NW Williams  
Lawton, Oklahoma 73507  
09/14/12

43. Consider approval of payroll for the period of August 23 September 5, 2010.

OLD BUSINESS ITEMS:



44. 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-\_\_\_\_\_ and Section 18-9-1-905 LCC.

Richard Rogalski, Planning Director, stated staff has been collecting the sign permit fees as they are included in Appendix A under Article A-18-9; however it was recently discovered that Article A-7-22 also had an entry regarding sign permits and is herein deleted. Further review of Article A-18-9 revealed a couple of additional discrepancies. The duration of a temporary sign permit was listed as 60 days rather than 30 days as specified in Section 18-9-1-909 LCC; and the fee for a permanent sign permit was listed as being 35% of the cost of the sign rather than 0.35% as was practically applied. On August 24, 2010, when this item first came before the City Council, there was additional discussion regarding exempted signs and the equity of charging the same \$25 permit fee for a sign valued from \$0 up to \$7,143, as the current rate would indicate. In response to these questions staff has created a fee structure for permanent sign permits that is more in line with the staff time required to review and approve the sign permits for the increasing value and complexity of the of signs.

Shanklin questioned if this was written by the staff or copied from some other city.

Rogalski stated the only thing they are changing are the fees. He stated they also included the portion of the code that deals with exception for signs.

MOVED by Wells, SECOND by Drewry to approve **Resolution 10-92** 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. AYE: Zarle, Haywood, Wells, Shoemate, Tennis, Drewry, Burk. NAY: Shanklin. MOTION CARRIED.

#### NEW BUSINESS ITEMS:

45. Consider an ordinance amending Section 2-3-1-300, Division 2-3-1, Article 2-3, Chapter 2, Lawton City Code, 2005, pertaining to recognition and attendance at meetings, providing for severability, and declaring an emergency. Exhibits: Ordinance 2010-\_\_\_\_\_.

Jensen stated this stems from the tabling of the approval of the amended bylaws of the CPC to address unexcused absences. The council gave direction to put that policy in an ordinance. This is for any city board, agency, commission or trust. If someone has three unexcused absences from consecutive regular meetings they are automatically removed.

Shanklin questioned if the council is subject to these rules.

Jensen stated no, this is for city boards, agencies and commissions. The council has their own rules.

MOVED by Wells, SECOND by Shoemate, to adopt **Ordinance 10-32**, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Zarle, Haywood, Wells, Shoemate, Tennis, Drewry, Burk, Shanklin. NAY: None. MOTION CARRIED.

(Title read by City Attorney) Ordinance 10-32

An ordinance amending paragraph B, Section 2-3-1-300, Division 2-3-1, Article 2-3, Chapter 2, Lawton City Code, 2005, pertaining to recognition and attendance at meetings, providing for severability, and declaring an emergency.

Burk requested that every person who sits on city boards get a copy of this ordinance.

Jensen stated staff is reviewing bylaws.

46. Consider an ordinance amending Section 22-2-3-232, Division 22-2-3 (Water and Sewer Services Outside City), Article 22-2, Chapter 22, Lawton City Code, 2005, by adding city sewer service inadvertently omitted from this section and exempting State of Oklahoma political subdivisions, not just municipalities, from the general building code requirements in the Lawton City Code required to be met by outside customers, providing for severability, and declaring an emergency. Exhibits: Ordinance 2010-\_\_\_\_\_.

Jensen stated at a previous council meeting the Flower Mound school system, who has had a long term water account with the City, has asked for sewer service. He stated the agreement has been approved, but their attorney has called and they are afraid they will not be able to meet our general building code requirements when they have to do alterations to their building. He stated he looked at the current article on outside water and sewer sales and

in the primary section sewer was not mentioned, so he has added sewer service. He stated there were some exemptions from the provisions in this section including the general building code requirements for the federal government, the State of Oklahoma and municipalities. A dependent school district like Flower Mound would not meet those categories so they have added political subdivisions to cover a place like Flower Mound school. He stated they also added that they all have to comply with ODEQ requirements and other requirements in the city code for water and sewer service. These changes will help Flower Mound school as well as clean up code sections.

Shoemate questioned who would pay for the line.

Jensen stated Flower Mound school has an obligation to run their line to our main.

Burk questioned how we would know if they are complying with code.

Jensen stated city staff would be performing inspections.

Burk stated he feels this may put an unfair burden on a lot of small businesses and people in the surrounding area that are not prepared for this to happen.

Jensen stated this would apply to those that are new contracts and those that expire.

Wells questioned if new users that connect to our line have to meet our standards.

Mitchell stated yes.

Burk stated they need to give people an opportunity to speak about this. They are passing something that no one knows anything about.

Jensen stated all this is changing is the rules for the federal, state and local governments. All of the other rules were adopted four or five years ago. All he is trying to deal with is the governmental customers who should have to comply with minimum sewer and water requirements.

Burk questioned who this will affect.

Jensen stated this already affects everyone else. That happened several years ago.

MOVED by Drewry, SECOND by Haywood, to adopt **Ordinance 10-33**, 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 10-33

An ordinance amending Section 22-2-3-232, Division 22-2-3 (Water and Sewer Services Outside City), Article 22-3, Chapter 22, Lawton City Code, 2005, by adding city sewer service inadvertently omitted from this section and exempting state of Oklahoma political subdivisions, not just municipalities, from the general building code requirements in the Lawton City Code required to be met by outside customers, providing for severability, and declaring an emergency.

47. Consider approving a revised 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. Revised Contract is on file in the City Clerk s Office.

Jensen stated he revised this contract to confirm with amendments to the code section.

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

48. Consider waiving Council Policy 1-6(E) and if so waived, reconsider the damage claim of John Trenholm, which was approved by Council on July 13, 2010, to permit Mr. Trenholm to retain ownership of his damaged vehicle in exchange for a reduction of his monetary claim from \$1,553.00 to \$1,000.00. Exhibits: Copy of Claims Memorandum/Recommendation dated July 13, 2010.

Jensen stated the truck in this case was totaled and was valued at \$1,553.00. Since it was totaled the City took possession of the truck for parts. The claimant contacted staff and requested that he take his vehicle back and reduce the amount of his claim.

MOVED by Burk, SECOND by Zarle to waive Council Policy 1-6(E). AYE: Shoemate, Tennis, Drewry, Burk, Shanklin, Zarle, Haywood. NAY: None. ABSENT: Wells. MOTION CARRIED.

MOVED by Burk, SECOND by Drewry to reconsider the damage claim of John Trenholm and permit Mr. Trenholm to retain ownership of his damaged vehicle in exchange for a reduction of his monetary claim from \$1,553.00 to \$1,000.00. AYE: Tennis, Drewry, Burk, Shanklin, Zarle, Haywood, Shoemate. NAY: None. ABSENT: Wells. MOTION CARRIED.

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

Mitchell stated the vote on the water rights for Waurika Lake is a huge step for the future of our community and a great decision. He stated offices in the new city hall should be open on Monday, October 11<sup>th</sup>. The new address for the building is 212 SW 9<sup>th</sup> Street.

Wells requested that staff come up with some guidelines on what is printed in the agenda book as far as exhibits. He suggested a five page limit on contracts, etc.

Mitchell stated he would like to see us go electronic.

The Mayor and Council convened in executive session at 8:04 p.m. and reconvened in regular, open session at 9:24 p.m. Roll call reflected all members present excluding Shanklin.

#### BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

49. 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 Police Union, IUPA Local 24, and the City of Lawton, and, if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item 49. No action was taken.

50. 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 American Federation of State, County and Municipal Employees (AFSCME) Local 3894, and, if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item 50. No action was taken.

51. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending action relating to the cracking of the foundation of the newly constructed Medicine Park Water Treatment Plant Water Storage Tank and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item 51. No action was taken.

52. Pursuant to Sections 307B.4, Title 25, Oklahoma Statutes, consider convening in an executive session to discuss the pending actions relating to a Notice of Violation (NOV) received from the Oklahoma Department of Environmental Quality (ODEQ) regarding the sludge lagoons utilized at 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 52. No action was taken.

53 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 protection of Lake Ellsworth, identifying a funding source and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item 53. No action was taken.

54. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the evaluation review of Larry Mitchell, City Manager, and if necessary, take appropriate action in open session. Exhibits: None.

Mayor Fitch read the title of item 54. No action was taken.

There being no further business to consider, the meeting adjourned at 9:27 p.m. upon motion, second and roll call vote.

FRED L. FITCH, MAYOR  
ATTEST:

TRACI HUSHBECK, CITY CLERK