

Meeting of 2010-9-28 Regular Meeting

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
SEPTEMBER 28, 2010 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

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

Mayor Fitch called the meeting to order at 6:01 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Reverend Norma Quinn, Centenary United Methodist Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT: Bill Shoemate, Ward One
Michael Tennis, Ward Two
Janice Drewry, Ward Three
Jay Burk, Ward Four
Richard Zarle, Ward Six
 Doug Wells, Ward Eight

ABSENT: Robert Shanklin, Ward Five
Stanley Haywood, Ward Seven

PRESENTATION OF CERTIFICATE OF APPRECIATION FOR CLEAN AIR PARTNERS & HEROES.

Mayor Fitch and Richard Rogalski, Planning Director, presented certificates to local businesses who partnered and contributed prizes for the clean air program.

AUDIENCE PARTICIPATION:

Clarice Phillips, 3902 NW Denver, stated she is concerned about the congestion that is around the Learning Tree Center during the time when children are dropping off their children. She stated between 38th and 39th street on Santa Fe there is a constant line of cars that are waiting to make the curve and go up to the back of the school. She stated other cars cannot get around the line. She has called police traffic division and she was told they have received numerous complaints. She stated there needs to be some kind of control for this traffic. She suggested a no parking sign on the south side of Santa Fe from 38th to 39th and that would do away with anyone blocking the traffic.

Shoemate stated he has spoken with city staff, police department and Lawton Public Schools (LPS) and whatever school you have, you are going to have this problem. When they start work on the Santa Fe bridge it will even get worse. He does not know what the answer is. He stated when the children are dropped off, the teacher will meet them one at a time, so it is a long process.

Mayor Fitch stated traffic engineering staff has spoken with LPS. The problem is that there is so much housing in the area.

Jerry Ihler, Public Works Director, stated staff has had a couple of meetings with LPS on this matter and it is a tough situation to resolve because there are 175 children that get dropped off and picked up. This backs up traffic all the way to 38th. He stated the school does not have the funds to increase the size of the parking lot. He stated the school has agreed to let the children be dropped off 30 minutes before instead of 15 minutes before. He stated the school has also sent out flyers to the parents requesting they stack on 40th because it is longer. They have also requested LPS have officers out there to help control traffic.

Drewry suggested there be no parking on the south side during school hours.

Ihler stated they did put no parking on the school side. He stated he thought that this did go to the Traffic Commission in the past and some of the neighbors were upset with the fact they had no parking in front of their home.

Mayor Fitch stated city staff is attempting to address the issue and they will get back in touch with Mrs. Phillips within 30 days.

Melissa Mayfield, Youth Services Coordinator, gave an update on their job skills training program. Eight youth participated in the program and they received a total of \$2,000. She also gave an update on the mural project at Owens Multipurpose Center and the Back to School Bash which was held in August. They were able to serve over 1,000 families this year.

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 #2 and #3 need to be considered separately. Tennis request item #4 and Wells requested items #8, #10, 17, #20, #21 be considered separately.

MOVED by Drewry, SECOND by Shoemate, to approve the consent agenda with the exception of items #2, #3, #4, #8, #10, #17, #20 and #21. AYE: Tennis, Drewry, Burk, Zarle, Wells, Shoemate. NAY: None. MOTION CARRIED.

1. Consider the following damage claim recommended for approval: Barbra Ellison in the amount of \$65.00. Exhibits: Legal Opinion/Recommendation.
2. Consider the following damage claims recommended for denial: Ralph and Melinda Dobrovolny in the amount of \$5,500.80 and Richard and Twyla McDonald in the amount of \$882.00. Exhibits: Legal Opinion/Recommendation.

Burk stated the McDonalds contacted him and he feels there is a little confusion on how things actually happened.

Twyla McDonald, 2322 NE Garden Lane, stated the water line broke underneath their driveway around 3 a.m. or 4 a.m. and the city came out and turned off their water at that time. City crews came back at 8 a.m. and told her they were going to start digging up the driveway and she would not be able to leave the house. She was not asked if they had any sprinkler systems, they just started digging up the driveway. They requested that the city contact them before the concrete was poured so they would be able to repair their sprinkler system. She stated they just came out one day and poured the new driveway without their knowledge.

Mayor Fitch clarified that their sprinkler system ran under the driveway and they needed to replace the pipe. He questioned the time frame from when they fixed the water main until they came back and poured the concrete.

Richard McDonald, 2322 NE Garden Lane, stated approximately 2 months.

Burk state he feels the McDonalds were not given the opportunity to come out and mark those lines as it states in our policy.

Mrs. McDonald stated she was never asked if they had a sprinkler system.

Kelea Fisher, Assistant City Attorney, stated the water distribution division was called out at 3:55 a.m. on an emergency water main break. She stated they did have to come back at 8 a.m. so they could call out locates. She stated this was an emergency and it was not performed in a negligent manner and there is no notice requirement when it is an emergency break.

Mr. McDonald stated they already had the water turned off by the time they came back at 8 a.m. so she feels there was not an emergency at that time.

Ihler stated the emergency was in trying to get the line fixed and soon as possible and get the water turned back on. There is a requirement that they had to call a locate company.

Burk stated he does not think city crews did anything on purpose, but there was a short amount of time and we could have asked if there was anything under there.

Tennis questioned why the McDonalds didn't fix the sprinkler pipe during the 2 month time period before the concrete was poured.

Mr. McDonald stated he went down and requested that they let him know before the concrete was poured.

MOVED by Burk, SECOND by Tennis, to approve the claim of Richard and Twyla McDonald in the amount of \$882.00. AYE: Drewry, Burk, Zarle, Shoemate, Tennis. NAY: Wells. MOTION CARRIED.

MOVED by Drewry, SECOND by Shoemate, to deny the claim of Ralph and Melinda Dobrovolny in the amount of \$5,500.80. AYE: Burk, Zarle, Wells, Shoemate, Tennis, Drewry. NAY: None. MOTION CARRIED.

3. Consider approving the appointment of Steve J. Coleman as Alternate Municipal Judge, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Steve J. Coleman s Agreement for Judicial Services.

Nathan Johnson, Municipal Court Judge, introduced Steve J. Coleman as a candidate for alternate Municipal Judge.

Mr. Coleman stated if he is confirmed, he will be committed to seeing that justice is done for the people of this city.

MOVED by Zarle, SECOND by Tennis, to approve the appointment of Steve J. Coleman as Alternate Municipal Judge, and authorize the Mayor and City Clerk to execute the Agreement AYE: Zarle, Wells, Shoemate, Tennis, Drewry, Burk. NAY: None. MOTION CARRIED.

4. Consider approving an Agreement between the Lawton Heritage Association and the City of Lawton to fund activities by the Association designed to encourage, promote and foster tourism in the City of Lawton, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Agreement for Limited Services with Attached Budget.

Tennis questioned the 4th grade school project listed under expenses.

Mayor Fitch stated he thought it was an art program.

MOVED by Tennis, SECOND by Drewry, to approve an Agreement between the Lawton Heritage Association and the City of Lawton. AYE: Zarle, Wells, Shoemate, Tennis, Drewry, Burk. NAY: None. MOTION CARRIED.

5. Consider approving contracts for Children s Art Studio , Fall 2010 semester for Steven Scott Smith (\$ 693), Kenneth Hobbs (\$ 594), Catherine Daugherty (\$ 270), and Krista Clavon (\$ 270) instructors for the program. Total amount for fall semester stipends is \$ 1,827.00. Exhibits: Contracts on file in City Clerk s office.

6. Consider renewing the agreement between the Board of County Commissioners of Comanche County and the City of Lawton for library service to Comanche County residents living outside the City of Lawton. Exhibits: Agreement.

7. Consider approving a resolution authorizing and calling for an election in the City of Lawton, State of Oklahoma, for the purpose of setting the dates for the 2010 primary and 2011 general municipal elections of designated City Council seats, setting a ballot title; and authorizing the Mayor to issue an election proclamation. Exhibits: **Resolution No. 10-95** and election Proclamation.

8. Consider accepting an engagement letter for consulting services with Comport Network Services and Solutions, LLC (Comport). Exhibits: Engagement Letter with Comport Network Services and Solutions, LLC (Comport).

Wells stated he finds it hard to believe that we don t have the talent in house to do this. He stated this was an open ended contract and he questioned why we did not go out for bid with a specified contract amount.

Rick Endicott, Finance Director, stated the IT staff is very knowledgeable, but they don t have expertise in moving an IT department. He stated that is something they have asked Comport to help them with over the next year so that when we do move, there will be no hiccups in the system. He stated there are many contracts that are open ended that help us on various projects. He stated if Council approves this contract it will be on an as-needed basis. By having consultants in various professional fields is a way to keep us understanding what we need to do and getting a different set of eyes.

Wells stated he would like to see us go out for bids and let different companies bid on that portion.

Endicott stated they are doing this much like the professional services agreement with some of the legal professionals. He stated it is very important to have a working relationship and trust the consultant we use and he feels they have that with Comport.

Wells questioned if we originally went out for bid for consulting services.

Endicott stated they did several years ago when we went out looking for help.

Mitchell stated we did do some interviewing, he is not sure we did an RFP to solicit proposals. They did interview three or four companies to determine if they had the services we needed.

Mayor Fitch stated if you go out for bid all you are going to get is a rate per hour and what they will charge as far as travel time.

Endicott stated these rates are in accordance with any IT professional consulting firm, accounting consulting firm or legal professional.

Zarle questioned if there were funds set aside for this project.

Endicott stated yes.

MOVED by Drewry, SECOND by Burk, to accept an engagement letter for consulting services with Comport Network Services and Solutions, LLC. AYE: Shoemate, Tennis, Drewry, Burk, Zarle. NAY: Wells. MOTION CARRIED.

9. Consider authorizing the Mayor to execute the recertification application for the Community Rating System of the National Flood Insurance Program. Exhibits: Recertification Application on file in the City Clerk's office.

10. Consider approving Change Order #2 for the NW 2nd Street Enhancement Project #2005-12 with RCJ Construction, Inc. Exhibits: None.

Wells stated the commentary stated that the plans prepared by the consultant did not include these items. He questioned why the consultant does not pay.

Ihler stated there are some things on plans that errors and omissions will cover, but this really relates to the electric meter for the traffic signal. They had intended on putting up a meter on an old wooden pole and they did not provide for a more aesthetic match for the area. He stated they had already started construction on the storm drain in this location when the inspector realized that this could be a problem and they relocated it eight to ten feet.

MOVED by Wells, SECOND by Drewry, to approve Change Order #2 for the NW 2nd Street Enhancement Project #2005-12 with RCJ Construction, Inc. AYE: Wells, Shoemate, Tennis, Drewry, Burk. NAY: Zarle. MOTION CARRIED.

11. Consider approving contract Amendment #1 with PSA-Dewberry Inc. for additional engineering services for the Santa Fe Bridge Replacement Project #2010-2. Exhibits: Amendment #1 to Agreement.

12. Consider accepting a permanent easement and a temporary easement from Jeffrey S. Lawson for right of way needed for the NW 82nd 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.

13. Consider accepting a permanent easement and a temporary easement from Martha Lou Lawson for right of way needed for the NW 82nd 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.

14. Consider accepting a temporary easement from Susan G. Lawson for right of way needed for the NW 82nd Street Sanitary Sewer Project #2010-4, authorizing the Mayor and City Clerk to execute the document and authorizing the Mayor to sign a thank you letter. Exhibits: Easement is on file in the City Clerk's office.

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

16. Consider acknowledging receipt of a Tier I permit from the Oklahoma Department of Environmental Quality for the construction of 860 linear feet of 8-inch PVC sewer line and all appurtenances to serve Stanley office building located at 1224 SW Rex Madeira Road. Exhibits: Permit to Construct on file in the City Clerk's Office.

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

Wells questioned where this was located.

Richard Rogalski, Planning Director, stated this is 40th Street which is the back way into Home Depot. Where this street turns north is this location right on the back corner between the subdivision to the south and the church.

MOVED by Wells, SECOND by Drewry, to approve the record plat for The Meadows and accepting the improvements and maintenance bonds. AYE: Shoemate, Tennis, Drewry, Burk, Zarle, Wells. NAY: None. MOTION CARRIED.

18. Consider accepting an 8-inch and 10-inch waterline and maintenance bond to serve The Legend Park Apartments located at 3501 East Gore Boulevard. Exhibits: Location Map. Maintenance Bond on file in City Clerk's Office.

19. Consider entering into a Lease-Purchase Agreement with Affinity Investments, Inc., for approximately 3,460 linear feet of 12 inch diameter water main located along SW Bishop Road and SW 52nd Street. Exhibits: Lease-Purchase Agreement with exhibits.

20. Consider setting the date of November 9, 2010, to hold a public hearing and consider closing a portion of a public utility easement on Lot 2, Block 18, Rolling Hills Development, Part 4A, located at 2061 SW 45th Street. Exhibits: Application, Site Plan and Location Map.

Wells questioned if this was over any utilities.

Rogalski stated this is within five feet of our sewer main and is encroaching on other utilities.

Wells questioned what would happen if we need to do work and the house is damaged.

Rogalski stated there is no good way out of this, the house was built on the wrong lot and well into the easement. Staff is working with the builder to work out a settlement. Staff feels the house is too close if they need to dig up the line, so they would look at pipe bursting or rerouting the sewer line. There is a section in chapter 20 which allows the City Attorney to work with the Public Works Director to determine how to best handle this issue.

Jensen stated even if we get a release of liability from the builder, the person who purchases the home is going to argue that they are not bound by the release of liability. He stated the options will be discussed at the public hearing.

MOVED by Wells, SECOND by Shoemate, to set the date of November 9, 2010, to hold a public hearing and consider closing a portion of a public utility easement on Lot 2, Block 18, Rolling Hills Development, Part 4A, located at 2061 SW 45th Street. AYE: Tennis, Drewry, Burk, Zarle, Wells, Shoemate. NAY: None. MOTION CARRIED.

21. Consider approving Change Order # 2 for the Intermodal Transportation Museum Project (F.A. Project No. STP-116E(130)EH). Exhibits: Change order request from Meyer Architecture Plus.

Wells questioned if this was the project the Council gave \$400,000 but the money would be reimbursed to the City.

Mitchell stated the money will be reimbursed once the project is finished. Approximately \$130,000 has already been reimbursed.

MOVED by Wells, SECOND by Drewry, to approve Change Order # 2 for the Intermodal Transportation Museum Project (F.A. Project No. STP-116E(130)EH). AYE: Drewry, Burk, Zarle, Wells, Shoemate, Tennis. NAY: None. MOTION CARRIED.

22. Consider accepting the lease agreement between the City of Lawton and K.W. & Co. Inc. for a six month lease of the office space currently occupied by Housing and Community Development Division located at 1307 and 1309 SW Washington Avenue. Exhibits: Lease Agreement between the City of Lawton and K. W. & Co. Inc., Letters of Acceptance of the terms from the Assistant Director, HCD and Mr. Kent Waller of K.W. & Co. Inc.

23. Consider a 9 month contract for (RFPC08-004) Property Insurance by Towe, Hester & Erwin, LLC of Lawton, OK. Exhibits: Memo from Human Resources, Letter from Towe, Hester & Erwin, LLC, Contract Extension Form.

24. Consider rejecting all bids for contract (RFPC10-043) Medicare/Medicaid Report Manager. Exhibits: Memo from Legal.

25. Consider extending contract (CL09-007) Electro Fusion Polyethylene Fittings for DR 17 Pipe to Isco Ind, LLC of Louisville, KY. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.

26. Consider approval of payroll for the period of September 6 19, 2010.

NEW BUSINESS ITEMS:

27. Consider the Consolidated Annual Performance and Evaluation Report (CAPER) for Federal Fiscal Year (FFY) 2009, receive a briefing on the CAPER, hold a public hearing to receive input from citizens, and approve the report for submission to HUD, and authorize the Mayor to sign the approved CAPER. Exhibits: None. (The CAPER is on file in the City Clerk s Office.).

Tim Libby, Assistant Director for Housing and Community Development, stated HUD requires grantees to submit a CAPER, which reports on the Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) Programs activities and accomplishments during the previous program year.

A power point presentation was made by Libby.

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

MOVED by Drewry, SECOND by Wells, to approve the report for submission to HUD, and authorize the Mayor to sign the approved CAPER. AYE: Burk, Zarle, Wells, Shoemate, Tennis, Drewry. NAY: None. MOTION CARRIED.

28. Consider an ordinance pertaining to panhandling amending Section 16-5-1-506, Division 16-5-1, Article 16-1, Chapter 16, Lawton City Code, 2005, by adding panhandling as a criminal offense in the Lawton City Code, providing for severability and declaring an emergency. Exhibits: Ordinance 2010-_____.

Wells stated we should always try to help people in need, but you should not have to be manhandled or fearful of people who are trying to get something from you. He feels the ordinance that staff has written is very good.

Mayor Fitch stated the ordinance addresses the problem within the community.

MOVED by Wells, SECOND by Zarle, to adopt **Ordinance 10-34**, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Zarle, Wells, Shoemate, Tennis, Drewry Burk. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 10-34

An ordinance amending Section 16-5-1-506, Division 16-5-1, Article 16-5, Chapter 16, Lawton City Code, 2005, by adding panhandling as a criminal offense in the Lawton City Code, providing for severability, and declaring an emergency.

29. Consider adopting resolutions approving the submission of Transportation Enhancement (TE) grant applications to the Oklahoma Department of Transportation for implementation of Phase III of the prioritized projects within Lawton Metropolitan Bicycle and Pedestrian Plan and landscaping improvements and enhancement of the Tri-level interchange on Interstate 44 and authorize the Mayor to execute. Exhibits: Resolution No. 10 - ____ (Bicycle and Pedestrian Plan), Resolution No. 10-____ (I-44 Tri-level Interchange), Lawton Bicycle and Pedestrian Project Phase II and III Route Map and Conceptual drawing of I-44 Tri-level Interchange Enhancement.

Rogalski stated this is a grant program in which the City of Lawton has been participating in for a number of years to include 2004, 2006 and 2008. This is the application cycle for the 2011 funding. This will get staff review and then we will make final application in January. During the last round we got money for 2nd Street as well as the bicycle and pedestrian plan. The City of Lawton was awarded a TE Grant during the last application cycle for implementation of the Phase II routes, being those identified as priorities number 1, 2, 3, and 4. Along with that project, the preparation of construction drawings and specifications for the Phase III routes was included. The Phase III routes are those identified as priorities 5, 6, 8, 9, and 10 in the Master Plan. The current year TE Grant application will consist of the construction of those Phase III routes. The estimated cost of the Phase III Bicycle Route project is \$500,000. If approved, Federal funds will reimburse a maximum of \$400,000 of the eligible project costs. Also within this current year TE Grant cycle, is an application for design and construction of the Interstate 44 Tri-level Interchange Enhancement project. This project covers the area from the I44/US 281 tri-level interchange to the beginning of the 2nd Street Project. This area consists of 41 acres divided by the various roadways into ten separate divisions. Although ultimately we would propose beautifying all 41 acres, this project covers the five or six most northern divisions containing 20-25 acres more or less. The project would begin with two life size bronze sculpted buffalo and entry gateway sign in what we are designating as the phase one area. In addition to the entry sign, the areas within phase one, two, three, four, five and possibly six would be completely landscaped using native materials. The landscaping will typify the plains and Wichita Mountains concepts, similar in nature to the median and roadway landscaping that has been recently installed at various locations throughout Lawton and especially along the newly completed 2nd Street project. The areas would also include an irrigation system and appropriate lighting for the entry sign buffalo. This application is requesting funds for a total project cost of \$600,000. Of this amount, 80% or \$480,000 will be reimbursed with Federal funds. Lawton Enhancement Trust Authority (LETA) has pledged the additional \$120,000.

Tenis questioned how they were going to handle the prairie dogs.

Rogalski stated they will have to remediate the problem prior to the project getting underway. He stated the maintenance of the project would be by the City of Lawton.

Burk stated LETA can make that happen.

Wells questioned who will come up with the additional \$100,000 on the bicycle plan.

Rogalski stated Friends of the Trail has told him that they are trying to find a funding source for the additional money. He stated he will bring this back to the City Council in December where we will actually prioritize the projects.

Wells questioned if they can provide in Lieu of funds.

Rogalski stated no, ODOT wants money.

Burk stated there will be no money for either one of these project that will come out of the general budget. This will be funded out of other areas. LETA will try to raise private donations to help raise the \$120,000. It is huge success to get this kind of money for a project for our city. This will really compliment our 2nd Street project.

MOVED by Burk, SECOND by Drewry, to approve **Resolution 10-96** for the Bicycle and Pedestrian Plan. AYE: Zarle, Wells, Shoemate, Tennis, Drewry, Burk. NAY: None. MOTION CARRIED.

MOVED by Burk, SECOND by Shoemate, to approve **Resolution 10-97** for the landscaping improvements and enhancement of the Tri-level interchange on Interstate 44. AYE: Wells, Shoemate, Tennis, Drewry, Burk, Zarle. NAY: None. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Tenis stated the International Festival was an outstanding event and commended city staff.

Shoemate stated the Comanche Nation Fair will be underway this coming weekend.

Wells stated he received a call about the intersection at 46th and Sheridan. The people were talking about the line of site. He has done some checking on the intersection and it comes to a T and the home owner has had the intersection landscaped for thirty years. It is a beautiful corner. There has never been an accident at that corner. He stated because of the policy they have been told to cut it all down. He stated we are trying to beautify the city but they do not want this to be a hazard. There is no stop sign there in any direction. He questioned if there was anything the Council could do.

Mayor Fitch stated if a stop sign was placed at that T that might remedy some issues. He stated we encourage and promote beautification.

Wells stated it is costly to put stop signs at every corner and he would hate to have to tell these people to cut it all down.

Shoemate stated if you lowered the height of the bushes about eight inches, you would be able to see and it still would look beautiful.

Wells stated he feels they need to look at this policy. He feels that this is a result of a neighbor s dispute.

Burk stated he would hate to see this taken down. He questioned if they could place a stop sign further back so that it would give people notice.

Bryan Long, Assistant City Manager, stated before Councilmember Wells became involved, he received two calls about this location. As a result of the calls he turned the issue over to Neighborhood Services Division for evaluation who determined it was in violation of our site triangle code.

Wells stated he feels that having the landscaping there makes people slow down and look.

Tenis questioned if this was an all or none deal.

Long stated they would have to bring it down to two feet, six inches.

Anthony Griffith, Neighborhood Services Supervisor, stated, as the code is now written, nearly everything would have to go.

