

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
JANUARY 10, 2017 – 6:00 P.M.
NEW CITY HALL
COUNCIL CHAMBERS/AUDITORIUM

Fred L. Fitch, Mayor
Presiding

Also Present:
Jerry Ihler, City Manager
Frank Jensen, City Attorney
Traci Hushbeck, City Clerk
COL Samuel Curtis, 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 Dunaway, Abundant Life Christian Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:

Bob Morford, Ward One
Keith Jackson, Ward Two
Caleb Davis, Ward Three
Jay Burk, Ward Four
Dwight Tanner, Jr., Ward Five
Cherry Phillips, Ward Six
V. Gay McGahee, Ward Seven
Doug Wells, Ward Eight

ABSENT: None

PRESENTATION OF PROCLAMATION TO JAMAR GIDDINGS

Mayor Fitch and Councilmember McGahee presented a proclamation honoring Jamar Giddings, Director of the Metro Tulsa West Mabee Boys and Girls Club.

PRESENTATION OF OUTSTANDING CITIZEN OF COMANCHE COUNTY TO PHYLLIS ROBERTSON

Mayor Fitch presented a Certificate of Commendation from the Mayor's Office to Phyllis Robertson.

EMPLOYEE SPOTLIGHT PRESENTATION TO KEVIN ADAMS, ANIMAL WELFARE DIVISION.

The City Manager and Mayor recognized Kevin Adams, Animal Welfare Division, for his outstanding performance.

AUDIENCE PARTICIPATION:

Barbara Clark, 3146 NW Cache Road, stated she feels that Lawton needs more crosswalks, sidewalks and cameras on the traffic lights to protect the citizens and identify the violators. She also stated there needs to be more policing of pedestrians who cross streets.

CONDUCT ELECTION OF MAYOR PRO TEM

MOVED by Jackson SECOND by Tanner to elect Doug Wells as Mayor Pro Tem. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, McGahee. NAY: None. ABSTAIN: Wells. MOTION CARRIED.

CONSENT AGENDA

Phillips requested items #7 and #8 be considered separately.

MOVED by Wells SECOND by McGahee to approve the consent agenda with the exception of items #7 and #8. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

1. Consider the following damage claim recommended for approval: Thelma and Lowell Ambrose in the amount of \$5,324.12. Exhibits: Legal Opinion/Recommendation and **Resolution No. 17-01.**
2. Consider accepting State Aid for Libraries Grant of \$43,436.00 from the Oklahoma Department of Libraries for FY 2016-2017. Exhibits: Agreement for 2017 State Aid Recipients; Oklahoma Department of Libraries Rules and Regulations for State and Grants to Public Libraries.
3. Consider accepting an Incentive Payment from Public Service Company (PSO) in the amount of \$12,936.62 for participation in the Peak Performance Program and authorizing the funds to be deposited into the Southeast Water Treatment Plant (SEWTP) 211 Account. Exhibits: None.
4. Consider authorizing contract with the City of Chattanooga to provide services by the City of Lawton Animal Welfare Division to receive animals for the purpose of re-homing, euthanization, or other means of disposal. Exhibits: Agreement.
5. Consider authorizing an Intergovernmental Support Agreement between Fort Sill and the City of Lawton wherein the Lawton Animal Welfare Division will provide full program support for animal welfare services on Fort Sill and authorize execution of the agreement. Exhibits: Intergovernmental Support Agreement (IGSA) on file at the City Clerk's Office.
6. Consider accepting the maintenance bond and waterline improvements to serve Salas Urban Cantina located at 247 E. Gore Boulevard. Exhibits: Location Map. Maintenance Bond is on file in the City Clerk's office.

7. Consider approving the record plat for Wyatt Acres Addition, Part 16, and accepting the improvements and maintenance bonds. Exhibits: Plat Map. Maintenance Bonds are on file in the City Clerk's Office.

Richard Rogalski, Community Services Director, stated this is the record plat for Wyatt Acres, Part 16. All of the improvements are complete.

Phillips stated this is in her ward and she is a proponent of sidewalks. In this issue the Wyatt family has asked not to put in this sidewalk on 82nd Street. On the west side of 82nd there is a very nice sidewalk that runs from Cache Road to Lee. The housing addition will bring more residents to this area who will want to use the sidewalks. Putting a 1/3 of a mile in sidewalk did not make much sense to her and will not help the situation. She is also concerned about how the citizens from the east side get to the west side safely because 82nd Street is very busy. She requested that staff come up with some options to give citizens a right of way.

Ihler stated they looked at the cost of a pedestrian crossing/crosswalk that was signalized and the approximate cost would be \$35,000.

Wells questioned if the \$35,000 included the traffic light.

Ihler stated yes, it includes everything. It would be very similar to the one on 38th Street between Cache Road and Rogers Lane.

Tanner questioned if Phillips was proposing that instead of building this small section of sidewalk they use the money for a crosswalk.

Phillips questioned if this was something the City would do.

Wells stated he feels this is a great idea since there are already crosswalks on 38th Street and 67th Street. If they excuse Mr. Wyatt from building the sidewalk then he would have to put money in that sidewalk fund.

Rogalski stated the sidewalk issue is tied to the construction plat on item #8. When the construction plat went before the City Planning Commission (CPC) there was a staff recommendation to add a sidewalk as a condition along 82nd Street. If you are building a subdivision you are required to build the sidewalks in front of all the houses and all the streets. Our code does not require a sub divider to build sidewalks on the arterial streets so it is not a code requirement for him to build that sidewalk along 82nd Street but it was a condition that was set by CPC and approved by the City Council on the construction plat. Mr. Wyatt is asking to remove that requirement and the CPC did vote 8-0 to remove that requirement from the construction plat because it would be a small section of sidewalk and then you would have a mile without sidewalk.

Burk stated for a number of years we went away from doing any sidewalks which was a huge mistake. His biggest concern that now it is a sidewalk to nowhere, but there will be citizens that

need to have access to cross over to that other sidewalk. The council will have to fund this or that plat has to be shown that it can be done in a different way. He questioned how much the sidewalk was going to cost.

Rogalski stated \$28,000.

Burk stated he likes the crosswalk signalization idea but how do they come to a compromise that makes it right. There has to be some way to get across the street safely. If they need to change the plat it needs to go back to the CPC and ask them to come up with a plan on how to get this done.

Phillips stated there will be a sidewalk on both sides of Gore when the reconstruction occurs.

Ihler stated the preliminary plans show there will be a six foot sidewalk on both sides of Gore.

Burk stated we have citizens all over town where people are walking in the grass. He hates to see us go away from having some sort of an access point. There is a fund set aside for ADA and he feels the \$28,000 is probably not the issue, the issue is why they would build a sidewalk to nowhere. He suggested they use some of the ADA funding to make it ADA accessible to get across that road.

Mayor Fitch stated you would put it where there is no sidewalk.

Ihler stated there will be a sidewalk coming out from the street to the end of the subdivision and that will get them to 82nd Street.

Burk stated he does not know how they can solve this tonight without a funding source.

Phillips stated it seems that the sidewalk is not really sensible and she would like to address the issue of a crosswalk and the light at a different time for that area because they need to find the funding. She is not sure where it should come from. She does not want to hold up the project but she would like to see us do something about the safety on 82nd Street.

Ihler stated staff will discuss the 2015 sales tax that does have funding for ADA projects and he feels that this may qualify.

Phillips stated the Wyatt family has given many easements to the City and she feels they need to take that into consideration as far as saving the City some money.

Jackson stated he feels something can be worked out pretty easily but staff just needs to look at this and figure something out.

MOVED by Phillips SECOND by Tanner to approve the record plat for Wyatt Acres Addition, Part 16, and accept the improvements and maintenance bonds. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

8. Consider approving a revised construction plat for Wyatt Acres Addition, Part 16.
Exhibits: Plat Map.

Mayor Fitch stated he is assuming they want this item taken back to the CPC.

Rogalski stated he understands that they may want to postpone the decision on this item regarding the construction plat but the record plat is what Mr. Wyatt needs to sell lots. If they don't act on the construction plat tonight, then the existing construction plat holds and he has to hold his record plat hostage for that sidewalk so he really doesn't get a record plat signed off on until that sidewalk is either installed or the council has resolved that issue.

Tanner stated the plan was to look at the 2015 sales tax extension and use that money for the crosswalk.

Ihler stated he would recommend the council approve this item and direct staff to look at the 2015 sales tax as well as visit with the traffic engineer about how the location fits in as far as a pedestrian crosswalk. You do not want to put one at every entry into the subdivision.

Burk stated they need to go back and look at our process of requiring this so they don't have this issue again. You can't pick and choose which ones you do.

Rogalski stated our subdivision code really says that nothing on the arterial will be affected by the adjacent subdivision and staff can look at that code and provide some wording where it will be the same for every subdivision.

Wells stated we might want to look at the arterials and start saying on reconstruction or new construction on arterials we put a sidewalk on both sides.

Ihler stated as they have started that process and when we go in now and do a reconstruction of an arterial road, instead of putting the large 10 foot sidewalk on one side and a 6 foot on the other side, we will now put a 6 foot sidewalk on each side and the bike path will be between the curbs.

Rogalski stated now our code is very strong on sidewalks, so if you are doing any kind of development that is facing an arterial you would have to build that 6 foot sidewalk in front. The only loophole is with subdivisions which are usually facing away from the arterial and our code does not make the developer improve any parts of the arterial. This is something we can look at.

McGahee stated it needs to be clearer to the citizens that there is no requirement for Mr. Wyatt to build a sidewalk. The requirement was placed in there when he got the first plat. She just feels it needs to be clear that they are not changing code, they are just pulling that requirement out that was placed in there.

MOVED by Phillips SECOND by Burk to approve a revised construction plat for Wyatt Acres Addition, Part 16. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, McGahee, Wells.
NAY: None. MOTION CARRIED.

9. Consider approving an agreement and payment of \$3,300.00 to Mr. Tom Crossland for the replacement of a portion of the residential driveway located at 6811 NW Crestwood Dr., which was demolished in the course of completing a city waterline repair. Exhibits: Proposed agreement between the City of Lawton and Mr. Crossland.
10. Consider extending for an additional year contract (CL15-026) Large Diameter PS46 Closed Profile PVC Pipe, (item #1 – 36’ Closed Profile, PS46 PVC Pipe and item #2 – 42’ Closed Profile, PS46 PVC Pipe) with HD Supply Waterworks, LTD of Owasso, OK and (item #3 – 48’ Closed Profile, PS46 PVC Pipe and item #4 – 54’ Closed Profile, PS46 PVC Pipe) with Oklahoma City Winwater of Oklahoma City, OK. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.
11. Consider extending contract (CL16-007) Electro Fusion Polyethylene Pipe Fittings to HD Supply Waterworks of Owasso, OK for an additional year. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.
12. Consider extending contract (RFPCL16-012) Fire Service Cost Recovery Billing and Collection Services to Fire Recovery USA of Roseville, CA. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.
13. Consider approval of payroll for the periods of December 6, 2016 – January 2, 2017.

OLD BUSINESS ITEMS:

14. Consider the following damage claim recommended for denial: Martha Phillips in the amount of \$7,724.24. Exhibits: Legal Opinion/Recommendation.

Kelea Fisher, Assistant City Attorney, stated this claim originally came to the council on December 6, 2016 regarding a sewer back up that occurred at Ms. Phillips rental home located at 320 NE Skyline Circle. The claim is in the amount of \$7,724.24 and she is requesting reimbursement for the cost of cleaning the home, replacing the flooring, three months of rent and \$425 for installation of a back flow preventer. Our records show that the City did respond to a sewer back up on May 27, 2016 and we found debris in the main and cleared it. There was no prior history on that segment of the main that services this address and there was no prior history with any issues with the City’s main on the first, second, third or fourth pipe segments below this address. There was one prior reported back up in May of 2015 but that back up was discovered to be a service line issue and not an issue with the City’s main. At the previous meeting the wastewater maintenance superintendent, Chris French, came and showed the council maps of how segments of mains were not connected and how they would not be considered in the history of this main. At that meeting Ms. Phillips requested that she be provided with documentation from the City Attorney’s office as to how they came to their decision and she did provide that information along with an invitation to come to their office to discuss the claim. At this point her recommendation has not changed because the law is clear and the City is not required to act as an insurance company regarding its sanitary sewer system and it would be virtually impossible for us to know and prevent clogs in the hundreds of miles of systems. The standard is whether or

not we had notice of the problem and in this case there is no history on this line or any of the connected lines.

Phillips questioned if Ms. Phillips contacted staff.

Fisher stated no, but her daughter in law does have some additional information that she wants to present to the council.

Felicia Godwin, representing Martha Phillips, stated the documentation they have is her service line warranty for the property. The City's records show that the City was called out in May 2015 before this happened in May 2016. The contractor hired by the warrantor for Ms. Phillips checked her line in May 2015 and the City checked their line and both said that their lines were clear. When the house flooded in May 2016 it was discovered that the City's line was blocked. Obviously someone made a mistake in May 2015 when they said the line was clear and subsequent events suggest it was the City. Ms. Phillips is the kind of landlord that keeps service line warranties and who calls her contractor and the City. When the City crews reported in May 2016 that she needed a backflow preventer along with a clean out valve she had it put in within 48 hours. You can't absolutely prove that the City made a mistake in May 2015, although that is the logical conclusion and that is where the line was plugged. Ms. Phillips is an 86 year old widow who has been a landlord for over 50 years and who pays her taxes and keeps up with her properties.

Fisher stated this is unfortunate but this is the status of the law for over 45 years. There was a call in 2015 and if the issue that existed in May 2015 was in fact a main line issue and more likely than not they would have had other calls from other residents or even from this resident stating that the problem persisted. They have no records from any other residents on this pipe segment or any of the pipe segments below stating that there was a problem with the main which would have caused problems with other residents.

Jackson questioned the recommendation regarding the sewer line itself, has the City of Lawton received any prior notice of problems on that main sewer line.

Fisher stated they do not have any prior notice.

Jackson requested the City Attorney inform them of the state statute concerning payment of these claims without prior notification.

Jensen stated the Oklahoma Supreme Court, in the opinion that is cited in the claims memorandum, says that we can't expect to know where the clogs are going to develop over hundreds of miles of sewer lines in the city limits and we don't serve as an insurance company so therefore you have to have prior notice. We go back three years and place a burden on the city staff to keep a line clear for three years and here you can go beyond three years because he doesn't even know the last time there was a problem out there.

Tanner stated apparently there was a problem in May of 2015 because Ms. Phillips called her plumber, the line was cleared and they called the City and when crews got there the line was

clear so something was blocked up somewhere. He stated they are assuming that the blockage came loose by the time the City got there.

Jensen stated there may have been a blockage in the service line that was pushed into the main line. It wasn't discovered during that time frame.

Chris French, Wastewater Collections Superintendent, stated it was not discovered during that time. Those lines over there are all PVC lines so it is not like the clay or concrete lines where they is a chance they would be broken down. PVC does not break down over long periods of time.

Tanner questioned what was blocking it in 2016.

French stated it was just debris, they don't see exactly what it is when it comes out.

Tanner questioned if clogs ever just come free on their own.

French stated not without it coming out of a manhole or a clean out because it will build up.

Tanner stated there was a problem somewhere in May 2015 and Ms. Phillips takes care of her business and she called a plumber and the City and it was cleared. In 2016 we can verify that the blockage was on the City's main line.

French stated there was a blockage in the City main and they did clear it and they also stated both times were during heavy rain events.

Ms. Godwin stated when they had the back flow preventer put in it hasn't happened since then. Both opening the clean out valve and the back flow preventer indicate that there is a problem in the City's line, not in the owners line. The renters had just renewed their lease and it was supposed to go into effect in May or June of 2016 and the house has sat vacant after that. Ms. Phillips has insurance and warranties and takes care of her business very promptly.

Phillips questioned if there was only one incident in 2015.

Ms. Godwin stated in 2015 there was one incident that was reported to the City. On subsequent occasions when it rained, there were backups into the yard because the tenants went out and opened up the clean out valve, but that did not work in May 2016.

Tanner stated there probably was an issue in May 2015 but it had cleared up by the time city crews got there. He is not willing to pay everything, but he is will to pay for some clean up.

Jackson questioned if any additional information has been provided to city staff that would make them change their recommendation.

Fisher stated no. The issue for the City is whether or not we had notice.

Tanner stated the City did have notice in 2015, we just didn't find anything in the line. We were notified there were problems but we determined it was not in our lines.

Fisher stated she respectfully disagrees.

MOVED by Jackson SECOND by Morford to deny the damage claim of Martha Phillips in the amount of \$7,724.24.

Davis stated that staff has said that in May 2016 was the first call that the City received.

Fisher stated that was the first call that we responded to where there was an issue found in the main and that is the legal standard they are looking at. Do we have any prior notice of any defective condition in our main, not in the private service line.

Davis stated the standard of reporting is whether there was an issue or not.

Fisher stated in the City's portion of the main.

Wells stated if the council were to approve this claim and pay it and another citizen sued them, they could be liable, individually, for triple damages if they were found guilty.

Tanner stated the city was called in May 2015 and the city staff checked the line, there just wasn't anything in it.

VOTE ON MOTION: AYE: Morford, Jackson, Burk, Phillips, McGahee, Wells. NAY: Davis, Tanner. MOTION CARRIED.

NEW BUSINESS ITEMS:

15. As provided in Ordinance No. 16-32, hold a public hearing to receive and consider input from citizens of Lawton regarding prioritizing proposed improvements to the City's streets and roadways to be funded upon the approval of the voters through a series of general obligation bonds in the amount of \$55,300,000 over a 13-year period. Exhibits: Attached is a list of residential, collector and arterial street improvements proposed by the City staff for consideration.

Ihler stated in October the council decided to move forward with a multi-year bond issue to make street improvements within the city of Lawton. They looked at multiple alternatives to include sales tax which would have to increase to 9.4% and that was not acceptable to retailers. They looked at the utility bill which would have to be raised \$12 to \$13 each month and they did not feel this was acceptable for the citizens. The last option was the ad valorem property tax. They looked at the average mill levy that a homeowner pays in the city of Lawton for the City's share over the past 15 years and that average was 10.68 mills. Based on that they decided they could go ahead and keep the mill levy total less than what we were actually paying on average over the past 15 years. Keeping the same mill levy at 10.55 mills over the next 13 years, citizens could actually be paying less property tax than what they paid on average over the past 15 years and we

could provide \$55 million worth of street and roadway improvements. The next step in this process is to conduct a public hearing so that citizens can come forward and make recommendations. Some of the projects included are some major arterials that are in very bad shape and they talked about providing \$2 million per ward for residential street projects. They provided some projects for the council to think about and that total is about \$10 million greater than what we collect, so there are \$65 million in projects identified. The council needs to identify what they want to provide in the residential and how much to provide in the arterials. He suggested they open up the public hearing and let citizens come forward with their suggestions.

Jackson stated as they starting putting this package together and attending some of the civic clubs, they were asked why they were only doing \$55 million and not more since the needs of the community are so much greater. With this bond package they wanted to make sure they do not increase the property taxes than what they are now.

PUBLIC HEARING OPENED.

Herbert S. Derricott, 6212 NW Cheyenne Drive, stated the paper stated the property tax would increase \$1.10 per month.

Ihler stated they went back and looked at the last 15 year average and that mill levy was 10.68. As they have been going through those 15 years they have been paying off some GO bonds that they have debt on. As we continue to pay those down, that has actually reduced the property tax and what was paid in 2016 has come down to a mill levy of 7. They looked at the last 15 year average including 2015 and 2016 and it has been 10.68 and going forward for the next 13 years we are going to keep it at 10.55 which is less than what the citizens have been paying on average over the past 15 years.

Mayor Fitch stated back in 2002 it was 15 mills and it fluctuates as you pay off some of these bonds. When you put more projects on there it would cause that mill levy to come back up. Over the past 15 years it averaged 10.68 mills and with this \$55 million over the next 13 years, it will average 10.55 mills. There will be dispersement of bond money during these years for various projects and so there will be different dollar amounts and then they will be maturing and then you will be adding others on to complete your \$55 million bond issue.

Mr. Derricott stated this year he paid \$2,100 in property taxes because he owns 37 lots and 6 houses. He can live with the extra \$400 next year, so if it is a small increase he can live with that.

Ihler stated for a \$100,000 home, a person would have paid, in 2016, \$892 in property tax and in 2017 they will pay an additional \$1.10 per month. When you go back and look at what you paid in 2006, that same homeowner paid \$954 in property tax. They went back and took that average over the past 15 and you are going to be paying less than what you have paid on the average for the past 15 years.

Mr. Derricott requested they put an example like this in the Lawton Constitution so it can give citizens an idea of what it going on.

Jackson stated a lot of citizens don't understand the millage situation and that is confusing. The millage levy on property taxes fluctuates all the time depending on bond issues and lawsuits. We are trying our best to hold it at 10.55 mills which is really less than it has been over the past 15 years.

Phillips stated city staff has done a tremendous job in balancing the issue of not raising taxes but yet getting projects started on fixing the streets. She feels this is the fair thing to do for the citizens. She would love to see an outcry from the citizens wanting to spend more money to just get it done.

Jackson stated this \$55 million is not even going to get close to making a dent in the street problem.

Morford stated people don't realize that there are other entities determining your tax, and we are saying that we will keep the City's portion stable. He stated your taxes may go up or down from the county or the schools.

Tom Leon, 2307 NW Redwood Lane, questioned who did the study on this program.

Ihler stated BOK Financial Securities put together the information as it relates to the tax levies. He stated then they made projections as how much money we could get each year over a 13 year period. They are here tonight to discuss what streets they want to do.

Mr. Leon questioned where they went to get the tax base of each home in Lawton.

Ihler stated anyone can get that from the county courthouse. He stated this is actual information and data.

Mr. Leon questioned if they are going to follow a program of doing something in each ward to get these streets where they should be or will they just pick one ward at a time.

Burk stated last time each ward was allocated so much money and they rotated wards.

Mr. Leon questioned where they would start.

Burk stated the biggest problem is that we need \$250 - \$300 million to solve our issue with roads, but that is not realistic. They are trying to keep the same amount and they are trying to come up with a plan that said it will not go higher than this. He stated this is a workable list and we have more projects than we have money.

Ihler stated over a 13 year period your priorities are going to change based on something that could occur.

Mr. Leon stated they are playing with people's money and they will eventually say you can't have any more. He stated the school wants more ad valorem tax in the future.

Burk stated we have CIP's that are scheduled out to 2025 and that is the first opportunity we will have to address the road issue again, so if this doesn't pass there will be no road money until 2025. This is the best effort to come up with a starting point.

Mr. Leon stated he is interested in where we are going to start.

Mayor Fitch stated that public works staff has a priority list of projects based on usage today and degree of deterioration and what needs to be addressed now. The list could change because of different circumstances.

PUBLIC HEARING CLOSED.

Wells stated that Ihler had requested some guidance on the amount that would go to each ward and he would recommend that the amount shown is the amount they go for.

Jensen stated this agenda item tonight is just a public forum to give citizens a right to submit input. It was not to take any action or give any kind of direction. He stated they first need to get it passed on February 14th. This is all designed to be prioritized and reprioritized as needed over a 13 year period. Every time it will be reprioritized it will have another public hearing.

Mayor Fitch stated this bond issue can only be spent on road improvements.

16. Hold a public hearing and consider an ordinance closing the 20-foot alley in Block 64, of North Addition, located between NW 2nd Street and NW 3rd Street, behind Nissan of Lawton addressed as 201 W Gore Boulevard and consider accepting a 20-foot public utility easement in its place. Exhibits: Ordinance No. 17-___, Location Map. Utility Easement on file in the City Clerk's Office.

Richard Rogalski, Community Services Director, stated this request is to close the 20-foot alley in Block 64, of North Addition, located between NW 2nd Street and NW 3rd Street, W Gore Boulevard and NW Arlington Avenue. The applicant, Nissan of Lawton, has requested to close this alley to public traffic because they own the entire block and the alley bisects their business. The City of Lawton, Fidelity, AT&T, PSO, and CenterPoint Energy all have utilities located within this alley and do not object to closing the alley as long as a public utility easement through the alley is maintained. Notice of public hearing was mailed to 31 property owners within 300 feet of the requested area on December 9, 2016, and notice was published in *The Lawton Constitution* on December 29, 2016. No objections to the closing of the alley have been received by area property owners.

Mayor Fitch stated Nissan of Lawton has bought the entire square block and they are wanting to close that alley for public access but give us a utility easement.

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

MOVED by Tanner **SECOND by Burk** to adopt **Ordinance 17-01**, waive the reading of the ordinance, read the title only and establishing an effective date of thirty days from today. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 17-01

An ordinance closing the alley in Block 64, North Addition, which is located at 201 W. Gore Boulevard with an effective date of thirty days from today.

17. Hold a public hearing and consider an ordinance changing the zoning from R-1 Single-Family Dwelling District to C-1 Local Commercial District zoning classification on property located at 1218 NW 31st Street. Exhibits: Ordinance No. 17-___, Site Plan, Location Map, Application and Draft CPC Minutes.

Rogalski stated this request is for Lot 3, Block 6, Greer Addition, Part 5, which measures 62 feet by 127 feet. The site plan indicates the proposed uses to be all uses permitted within the C-1 district. The proposed use at this time is a home cleaning service. The applicant, Daniel El Kouri, proposes to construct a 1,500 square foot building with an office and three bay garage for the vans used in the cleaning business. The zoning of the surrounding area is C-1 to the north, R-1 to the south, C-5 General Commercial District and R-1 to the east, and C-5 to the west. The land use of the surrounding area is commercial office building to the north, single-family residential to the south, commercial center and single-family residential to the east, and a hotel to the west. The Land Use Plan designates this lot as Commercial. On December 15, 2016, the City Planning Commission (CPC) held a public hearing on this request, and by a vote of 8 – 0 recommended approval subject to NW 31st Street not being closed during business hours (Monday through Friday, 6 a.m. to 6 p.m.) due to construction of the driveway.

Ihler stated when staff was reviewing the agenda item there was some concerns about limiting the work for any blockage of the roadway and when they do the driveway they will have to block off a minimum of one lane of traffic. To limit them to the hours prior to 6 a.m. and after 6 p.m., Monday through Friday, there was discussion about when they would do the work.

Rogalski stated that was a condition of the CPC, but there are some difficulties because you really can't get concrete other than during those times. All they need to do to construct this driveway is to cut a little to build the gutter. He stated a decent limitation might be between 10 a.m. and 4 p.m. and keeping it open during peak hours, because it could be difficult to build something if you can't do it Monday through Friday, 6 a.m. to 6 p.m.

Morford stated the traffic is really not great there and he feels they could get by leaving one lane open.

Mayor Fitch stated the City has projects all over town down to one lane and that is just progress. That is what we have to do to fix these things. He stated concrete companies are closed after these hours and we couldn't even get inspectors out without paying overtime. He stated there will be an inconvenience for probably 72 hours.

Morford questioned why the CPC put these restriction on, was there a specific reason?

Rogalski stated that there have been projects where they have closed the road for a good length of time and that is what they are reacting to. The CPC wants to minimize this and that is why they made this part of their motion.

Morford questioned if there was a way they can check on this closing.

Rogalski stated the recommendation of the CPC is just a recommendation, the city council is the final voice on this item.

Burk feels that this is a little ridiculous asking them to pour after 6 p.m. He is recommending that we let them pour when they need to and if they have to block off that side of the street they have people out there with a stop sign. This is progress and they need to move past this.

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

MOVED by Burk SECOND by Phillips to adopt **Ordinance 17-02** with no conditions, waive the reading of the ordinance, read the title only. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 17-02

An ordinance changing the zoning classification from the existing classification of R-1 Single-Family Dwelling District to C-1 Local Commercial District zoning classification on the tract of land which is hereinafter more particularly described in section one (1) hereof; approving the site plan attached as Exhibit A; and authorizing changes to be made upon the official zoning map in accordance with this ordinance.

18. Consider requesting the Oklahoma Department of Transportation to construct a median barrier on U.S. Highway 62 from Interstate 44 to NW 82nd Street and authorize the mayor to execute a letter of request. Exhibits: None.

Jackson stated most of the council is aware of the incident that took the life a citizen on Rogers Lane close to Sheridan Road, due to an erratic driver speeding and crossing the lane. He would like the council to ask the Mayor to send a letter of request to the Oklahoma Department of Transportation to place some sort of barrier down the median of Rogers Lane. He stated they are going to continue to study the traffic pattern on Rogers Lane and the police chief has dedicated to sending more officers on Rogers Lane to continue to ticket people who are speeding.

MOVED by Jackson SECOND by Morford to request the Oklahoma Department of Transportation to construct a median barrier on U.S. Highway 62 from Interstate 44 to NW 82nd Street. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

19. Consider approving a resolution for the designation of SW Pennsylvania Avenue within The Lawton View Addition between SW 11th Street and SW 17th Street in honor of former City Council member Stanley Haywood. Exhibits: Resolution 17-__ and Picture of Honorary Sign.

McGahee stated they all know what an asset Councilmember Haywood was to the City and this community as a whole and she feels it is fitting that they dedicate Pennsylvania Avenue to him since that is the street in which he grew up. She would like the community to join in as they honor a man who is worthy of this dedication.

Mayor Fitch stated this will still be Pennsylvania Avenue, but there will be an additional sign on top.

McGahee stated the street sign will be at each corner of Pennsylvania Avenue from 17th Street to 11th Street that says “In Honor of Stanley Haywood”.

Wells stated 10 to 15 years ago the council said that it would no longer rename streets because of the cost involved and they would start making them honorary street names.

Burk stated that Councilmember Haywood wanted this to stop happening because people and businesses had to change their address on everything and it was a nightmare. He stated this is a perfect dedication for someone who put in the time and service he gave to the citizens of Lawton.

MOVED by McGahee SECOND by Phillips to adopt **Resolution 17-02** designating SW Pennsylvania Avenue within the Lawton View Addition between SW 11th Street and SW 17th Street in honor of former City Council member Stanley Haywood. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

20. Consider discussing the impact of a new state law effective July 1, 2015 creating the Oklahoma Transportation Network Company Services Act and authorizing TNCs to operate and charge fares for transportation services without any local regulatory control of such services by the municipalities in which they operate. Exhibits: House Bill No. 1614.

Mayor Fitch stated this is not a city issue and we have no say so in this matter. He stated this comes under the Corporation Commission and it basically sets all the standards of governing.

Phillips questioned where the accountability is.

Mayor Fitch stated they have to provide insurance, they have fees for the drivers and they have to do background checks. They have to meet all that we are asking them to do at the city level, but it is handled by the Department of Commerce and we have no control over it.

Burk stated he wanted to discuss this because T-Ride does not have the same requirements that the City of Lawton has. Our taxi cab companies are asked to pay large amounts of insurance and have cars that are stickered with fares listed on the vehicle. We have done all kinds of things that

now put our local companies at a disadvantage to being able to operate within our city limits. We collect a fee from our local cab companies and we cannot collect one penny from T-Ride. He met with representatives from the cab companies and we need to make it an even playing field and say that if that is what T-Ride can do, that is what the cab companies in Lawton can do to compete. We have zones that don't make any sense and are archaic and people have to take a test to be a cab driver in Lawton, which is just ridiculous. We are telling the local drivers what they can charge but T-Ride can charge whatever they want because it is a private company. He stated there is an app out there called Taxi Caller and he feels our local drivers should be able to use this app. Why would we ask our local cab companies to do something when a company based out of Tulsa can come in and do whatever they want. He requested that he chair a committee of council members and representatives from the local cab companies to talk about existing requirements on local drivers. There are many things that need to be looked so that the local drivers can compete.

Morford stated he thought staff was already working on amending the code regarding taxi cabs.

Rogalski stated he already has a meeting set to start going through the code. He has some great background on what other cities and states require and they are headed for simplification. He wants to get this done quickly.

Mayor Fitch stated unless anyone just wants to be on the committee, he feels that Councilmember Burk can work with staff and the local cab companies to get something put together and get it all on a level playing field.

Jackson stated state legislators wane and cry about the federal government's intrusion upon state's rights and this is the same thing, here is the state coming down here and intruding on the city's rights.

Mayor Fitch stated they need to address this with our local legislators.

Wells volunteered to be a member of the committee.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

COL Waters stated on Monday Homeland Security extended Oklahoma's deadline to June to comply with the Real ID act.

McGahee stated the street dedication for Councilmember Haywood will be held on Monday at 11 a.m. at Friendship Pentecostal Holiness Church at 14th & Pennsylvania.

Tanner stated there are a lot of good things happening in Lawton, but he walked by Sears this morning and they are closing. Hastings and Kmart have closed down and there are a lot of businesses that are closing and he is wondering what is going on. They need to come together as a council and come up with some reasons why this is happening. One of the big complaints that people have are that it is difficult to do business with city hall. He feels they need to focus this year on some user friendly policies.

Davis thanked all of his supporters for electing him to office.

Morford stated since his wife's health issues he has become more aware of ADA accessibility issues and they need to keep this mind.

Ihler introduced Daniel Pay, a student from Lawton who is attending the University of Oklahoma who has been shadowing in the City Manager's office. He has four degrees and is working on a Master's Degree in public administration. He is very interested in working with communities and he is hoping to get a job with the City of Lawton.

The Mayor and Council convened in executive session at 8:17 p.m. and reconvened in regular, open session at 9:33 p.m. Roll call reflected all members present.

EXECUTIVE SESSION ITEMS:

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

Mayor Fitch read the title of item 21.

MOVED by Wells SECOND by Burk to approve a two year contract with a salary increase of 3%. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

22. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending damage claim of Kristina M. Taylor and, if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item 22.

MOVED by Wells SECOND by McGahee to approve **Resolution 17-03** authorizing the City Attorney to settle the personal injury claim of Kristina M. Taylor for the sum of \$90,000 and further directing the City Attorney to prepare and file a journal entry of judgement in a settlement agreement incorporating said resolution along with Resolution 16-33 adopted by the council on May 10, 2016 which authorized settlement of the property damage claim of Kristina M. Taylor in the amount of \$4,126.00 and to file said documents in Comanche County District Court Case styled Kristina Maria Taylor vs. City of Lawton Case Number CJ2016-809 and will include settlement of all claims and causes of action cost prejudgment interest in attorney fees and will be placed on the tax rolls. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

23. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending damage claim of Markeia Carter and, if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item 23. No action was taken.

24. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss an investigation of matters involving the Lawton Fire Department, and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item 24. No action was taken.

There being no further business to consider, the meeting adjourned at 9:36 p.m. upon motion, second and roll call vote.

FRED L. FITCH, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK