

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
FEBRUARY 25, 2014 – 6:00 P.M.
NEW CITY HALL
COUNCIL CHAMBERS/AUDITORIUM

Fred L. Fitch, Mayor
Presiding

Also Present:
Bryan Long, City Manager
Frank V. Jensen, City Attorney
Traci Hushbeck, City Clerk
COL Glen A. Waters, Fort Sill Liaison

Mayor Fitch called the meeting to order at 6:06 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Pastor Tim Evans, Dayspring Community Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:

Bob Morford, Ward One
Keith Jackson, Ward Two
Rosemary Bellino-Hall, Ward Three
Jay Burk, Ward Four
Dwight Tanner, Jr., Ward Five
Richard Zarle, Ward Six
Stanley Haywood, Ward Seven
Doug Wells, Ward Eight

ABSENT:

None.

Mayor Fitch announced that items #26 and #27 regarding itinerant vendors will be stricken from the agenda so that staff can review it and bring it back in the next two or three meetings. He stated if anyone is in the audience to speak on these items, these will be stricken.

PRESENTATION OF OUTSTANDING CITIZEN OF COMANCHE COUNTY TO DWIGHT COPE

Mayor Fitch presented a Certificate of Commendation from the Mayors Office to Dwight Cope.

EMPLOYEE SPOTLIGHT PRESENTATION TO TRUDY KASTNER – HUMAN RESOURCES DEPARTMENT

Mayor Fitch and Bryan Long recognized Trudy Kastner, Human Resources Department.

AUDIENCE PARTICIPATION

(Unidentified Citizen) Reported on a gang prevention program he has brought to Lawton.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETINGS OF JANUARY 28, FEBRUARY 11, 2014 AND THE SPECIAL MEETING OF FEBRUARY 5, 2014.

MOVED by Burk SECOND by Wells to approve the minutes of January 28, February 5 and February 11, 2014. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

CONSENT AGENDA

Mayor Fitch stated the Daniels claim on item #1 needs to be discussed separately. He stated they also need to pull item #8 at the request of staff.

MOVED by Burk SECOND by Jackson to approve the consent agenda with the exception of items #1 (Daniels claim) and #8. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for approval: Sameera Hamra Murad, dba Hamra Property Co., LLC. in the amount of \$4,232.71 (**Res. 14-21**), American Electric Power Company in the amount of \$3,194.00 (**Res. 14-22**), Southwestern Bell Telephone, dba AT&T Oklahoma in the amount of \$1,278.44 (**Res. 14-23**) and Tonita Daniels, through her attorney John Zelbst in the reduced amount of \$16,325.37 (Res. 14-___). Exhibits: Legal Opinions/Recommendations, Resolution No. 14-____, Resolution No. 14-____, Resolution No. 14-____, Resolution No. 14-____.

John Zelbst, Attorney for Tonita Daniels, stated the attachment to the legal opinion talks about kitchen cabinets for \$1,350. He stated these cabinets cannot be pre-purchased and are custom made and she wants to buy cabinets to match the bottom cabinets. She is asking that an additional \$1,350 be added on to what has been approved by the City. Even though the top cabinets were not destroyed by the sewer back up, she is asking for the additional money to match the cabinets.

Jensen stated staff would recommend approval of \$1,350 in addition to the \$16,325.37 that staff had originally recommended.

MOVED by Jackson SECOND by Tanner to adopt **Resolution 14-24** approving the claim of Tonita Daniels, through her attorney John Zelbst in the amended amount of \$17,675.37 AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

2. Consider approving the deposit of a reimbursement check from Rubenstein & Pitts in the amount of Twelve Thousand Nine Hundred Eighty-One and 06/100 Dollars (\$12,981.06) into City Attorney's 231 - Professional Services Account. Exhibits: Rubenstein & Pitts reimbursement check.

3. Consider adopting a resolution approving the compromise settlement and making payment in the workers' compensation claim of Ismael Garcia. Exhibits: **Resolution 14-25**.
4. Consider adopting a resolution approving the compromise settlement and making payment in the workers' compensation claim of Anthony Bray. Exhibits: **Resolution 14-26**.
5. Authorize the Mayor to execute a Fiscal Year 2013-2014 collective bargaining agreement between the City of Lawton and the International Union of Police Associations, Local 24. Exhibits: IUPA Local 24's last best offer for Fiscal Year 2013-2014 in final form (on file in the City Clerk's Office).
6. Consider approving an Agreement for Professional Services between Alvin R. Jung, d/b/a Jung Engineering, and the City of Lawton to evaluate and provide expert testimony on the redesign and reconstruction of a property in the Comanche County District Court Case CJ-2014-49 styled Vickie Barney vs. City of Lawton, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Agreement between Alvin R. Jung and City of Lawton.
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 2014 primary and general municipal elections for designated City Council seats and authorizing the Mayor to issue an election proclamation. Exhibits: **Resolution No. 14-27** and Election Proclamation.
8. Consider approving a request from BLAC! Inc. out of Oklahoma City, Oklahoma and Mrs. Anita Arnold to allow the Parks and Recreation Department to Co-sponsor and provide in-kind services to the 29th Annual Charlie Christian International Music Festival on May 22-26, 2014 at Shepler Park and Old City Hall parking lots and using the dock at the City Hall Annex as a stage venue and the new City Hall auditorium. Exhibits: Letters of Endorsement for the Charlie Christian International Music Festival

Kim Shahan, Parks and Recreation Director, stated the reason he pulled this item is because he wanted to bring some clarification in reference to the request. A business owner has an interest in supporting this project. The request was for the use of some city property and also in kind services from his department. The location that has been agreed upon is the property they all know as the Fairmont Creamery. The festival will be on the exterior of the property. If approved tonight, some of the city properties will be used for the festival, but they will also be used at the creamery location. The in kind services will be temporary fencing and bleachers to take to other properties for the festival. (He introduced Ms. Anita Arnold).

MOVED by Haywood SECOND by Zarle to approve a request from BLAC! Inc. out of Oklahoma City, Oklahoma and Mrs. Anita Arnold to allow the Parks and Recreation Department to Co-sponsor and provide in-kind services to the 29th Annual Charlie Christian International Music Festival on May 22-26, 2014 at Shepler Park and Old City Hall parking lots and using the dock at the City Hall Annex as a stage venue and the new City Hall auditorium. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

9. Consider approving an Elmer Thomas Park standard lease agreement with Teen Challenge of Oklahoma Inc. for a one day event called Freedom Fest with a public Fireworks display on Thursday July 3, 2014. Exhibits: Letter of Request from Teen Challenge of Oklahoma and Standard Elmer Thomas Park lease agreement.
10. Consider authorizing a contract with Buck Lafferty and Lafferty Motor Sports LLC for management and operations of Fisherman's Cove on Lake Ellsworth for the development of a concession operations and services to include the development of ATV recreational facility. Exhibits: Refer to Lawton Water Authority agenda item.
11. Consider re-approving the record plat for the Replat of Block 9, Eastlake Addition, Part 2. Exhibits: Plat Map.
12. Consider accepting permanent utility and drainage easements for the public improvements located within Lots 3, 4, 5, 6, 7, and 8, Block 1, Lawton Downtown Center, Part 2. Exhibits: Location Maps. Easements on file in the City Clerk's office.
13. Consider granting a release of temporary easements within the Lawton Town Center project area. Exhibits: Release of Easements is on file in the City Clerk's office.
14. Consider accepting a permanent utility easement and three temporary easements from Lyle & Evelyn Ball, husband and wife for right of way needed for the South Wolf Creek Trunk Expansion #2 Project #13-3SSES, authorizing the Mayor and City Clerk to execute the documents and authorizing payment for the same. Exhibits: Location Maps. Documents are on file in the City Clerk's office.
15. Consider accepting a warranty deed from Joshua L. Bynum and Rachel Bynum, husband and wife for right of way needed for the SE 45th Street Reconstruction (Between Lee & Gore) Project #2006-12, authorizing the Mayor and City Clerk to execute the document and authorizing payment for the same. Exhibits: Location Maps. Documents are on file in the City Clerk's office.
16. Consider accepting a temporary easement from William C. Williams and Lisa J. Williams, husband and wife for right of way needed for the SE 45th Street Reconstruction (Between Lee & Gore) Project #2006-12, authorizing the Mayor and City Clerk to execute the document and authorizing payment for the same. Exhibits: Location Maps. Documents are on file in the City Clerk's office.

17. Consider transferring savings in the rolling stock fund from the Medicine Park Water Treatment Plant's budget to the Police Departments budget. Exhibits: Letter of recommendation from the Equipment Maintenance Supervisor.
18. Consider extending contract (RFPCL12-015) Concession Operations, Ahlshlager Park with Lawton Evening Optimist of Lawton, OK for an additional year. Exhibits: Department recommendation, Contract Extension Form, Price Sheet.
19. Consider awarding contract (CL14-018) Lease of Hydraulic Excavator to CL Boyd Company Inc from Oklahoma City, OK. Exhibits: Department recommendation, Contract Extension Form, Price Sheet.
20. Consider entering into a Trust Authorization agreement with LifeQuest Services of Wautoma, WI. Exhibits: Trust Authorized Signature Page.
21. Consider approving appointments to boards and commissions. Exhibits: None.
22. Consider approval of payroll for the periods of February 3-16, 2014.

NEW BUSINESS ITEMS:

23. Hold a public hearing and adopt a resolution declaring the structures located at: 1401 NW Baldwin Avenue; 1425 NW Ozmun Avenue; and 1511 NW Lawton Avenue to be dilapidated pursuant to Lawton City Code 6-5-1, ordering the owner(s) to abate the nuisance, authorizing summary abatement, and authorizing the City Attorney to commence legal action in district court to abate the nuisance. Exhibits: Three Resolutions and Exhibits A.

1401 NW Baldwin

Anthony Griffith, Neighborhood Services Supervisor, reported the numerous violations of city code existing on the property are documented on the Property Maintenance Evaluation Sheet. He stated the property has been without utilities since September 12, 2003. Griffith presented photographs of the property.

Tanner questioned if they demolish mobile homes or do they haul them off.

Griffith stated yes they do demolish them, but at this point they are asking the homeowner to either bring it up to code or demolish it.

PUBLIC HEARING OPENED.

Jo Porter, property owner, stated they have kept it boarded up and there is no grass growing around it. She stated the ceiling, walls and floors are fine and they can get in there and remodel and put in doors and windows.

Mayor Fitch asked if Ms. Porter had applied for a building permit or spoken to Mr. Griffith. He stated she will be given a period of time to remodel the mobile home. He questioned why this has not been addressed sooner. He questioned how many citations this property has received.

Griffith stated this is the third time this property has been brought to council as a dilapidated structure. It was brought before the council in 2005 but it had improper notice and it was brought back in 2006 but there was a problem with the title.

Jackson stated there is a massive clean up in the zone one area and with the support of the council, he is requesting they leave this on the demolition list and in the meantime Ms. Porter would have an opportunity to talk with Mr. Griffith and offer up a plan to do the remodeling. If nothing is done within that 30 days, we will take it down. It has been unoccupied since 2003, so he feels the City has been very lenient.

PUBLIC HEARING CLOSED.

MOVED by Jackson SECOND by Burk, to adopt **Resolution 14-28** declaring the structure located at 1401 NW Baldwin to be a dilapidated public nuisance. AYE: Morford, Jackson, Bellino-Hall, Burk, Zarle, Haywood, Wells. NAY: Tanner. MOTION CARRIED.

1425 NW Ozmun Avenue

Griffith reported the numerous violations of city code existing on the property are documented on the Property Maintenance Evaluation Sheet. He stated the property has been without utilities since November 9, 2005. Griffith presented photographs of the property.

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

MOVED by Jackson SECOND by Morford, to adopt **Resolution 14-29** declaring the structure located at 1425 NW Ozmun Avenue to be a dilapidated public nuisance. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

1511 NW Lawton Avenue

Griffith reported the numerous violations of city code existing on the property are documented on the Property Maintenance Evaluation Sheet. He stated the property has been without utilities since February 1, 2013. Griffith presented photographs of the property.

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

MOVED by Jackson SECOND by Morford, to adopt **Resolution 14-30** declaring the structure located at 1511 NW Lawton Avenue to be a dilapidated public nuisance. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

24. Conduct a public hearing and accept the Self-Evaluation Report recently undertaken by City staff as part of the ongoing process of assessing and improving program accessibility within the City as required by Title II of the Americans with Disability Act (ADA). Exhibits: ADA Self-evaluation Report.

Jim Russell, Assistant City Manager, stated the self evaluation is the second step of the settlement agreement. He stated this evaluation sets policy and practices that govern the programs, services and activities by the City in discriminating against citizens living with disabilities. The goal of the self-evaluation is that all the services and activities are equally accessible to citizens. The third step will be the facilities assessment and it should be presented to the council in a month. It is designed to identify physical barriers that any citizen with a disability may have in participating in these programs. The fourth step is transition planning which is working with the Lawton Access Board which was put into place a month ago. The board will work with the self evaluation to develop a long range plan on how they will start addressing these inefficiencies that they identified through the assessments. Most of our policies, procedures and practices simply do not address the ADA issues. He stated we have a long road ahead of us and we have identified several opportunities that we need to take steps to correct. A lot of these will be low cost issues that we need to put into place.

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

MOVED by Wells SECOND by Burk, to accept the Self-Evaluation Report. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

25. Consider approving an ordinance pertaining to the adoption of the most recent editions of the International Codes adopted by the State of Oklahoma as amended by the Oklahoma Uniform Building Code Commission by adopting the 2009 editions of the International Building Code, International Property Maintenance Code, International Existing Building Code, and International Fire Code, and the 2011 National Electrical Code by amending Sections 6-1-1-101 through 6-1-1-103, Division 6-1-1, Article 6-1, Sections 6-3-1-301 through 6-3-1-302, Division 6-3-1, Article 6-3, Sections 6-5-1-501 through 6-5-1-505, Division 6-5-1, Sections 6-5-2-221 through 6-5-2-223, Division 6-5-2, Article 6-5, Chapter 6, and Sections 11-2-201, 11-2-208, and 11-2-209, Article 11-2, Chapter 11, Lawton City Code, 2005, providing for severability and establishing an effective date. Exhibits: Ordinance No. 14-__ and significant changes handout.

Richard Rogalski, Community Services Director, stated the international codes mentioned above have been adopted by the Construction Industries Board of the State of Oklahoma since November 2, 2012. During the review of the International Codes by the Oklahoma Uniform Building Code Commission, it was determined that some sections of the International Codes needed to be amended in order to accommodate the State of Oklahoma. The amendments by the Oklahoma Uniform Building Code Commission are included in this ordinance. The state requires that all governmental entities adopt the same codes and amendments in order to establish minimum requirements to safeguard the health, safety and general welfare of the public, provide safety to life and property from fire and other hazards attributed to the built

environment, and to provide safety to fire fighters and emergency responders during emergency operations. The ordinance establishes an effect date of May 1, 2014 to allow for notifications.

Burk questioned what other cities in the state have adopted the 2009 code. He questioned if Oklahoma City had adopted it.

Doug Wellhouse, Code Plans Supervisor, stated Oklahoma City has not, but there are about thirteen municipalities that have adopted these.

Burk questioned if Tulsa has.

Wellhouse stated no.

Burk stated we are always way ahead of everyone else in the state and we are actually making our local people do so many things that Tulsa and Oklahoma City are not doing. There is a reason why because it costs the citizen more money. He is not saying it is not good, but it is stringent and it is very cumbersome for people to be able to understand what they are supposed to do. He works in Oklahoma City and we are doing things that they are not even close to doing there. They are far behind.

Wellhouse stated they are in 2006 codes.

Burk questioned if we put our local people at a disadvantage when they go to these other communities that have not adopted these codes. A lot of cities have not adopted this. There are a lot of contractors that come here that have never done this kind of work.

Wellhouse stated under our ISO evaluation, if you are not under the current code you can actually lose points, so there are drawbacks.

Burk stated we are way ahead.

Wellhouse stated not really, the current code in the market is 2012. With the 2009 that would put us close.

Burk questioned why Oklahoma City and Tulsa are not concerned with the ISO points.

Wellhouse stated maybe they don't mind if their citizens pay higher insurance premiums.

Burk stated it becomes a real burden on people. He received a lot of grief from people in the business that felt that we adopt these too fast. He would like to hear why the bigger communities are not adopting these codes. He does not want us to just pass this because the state says we need to.

Wellhouse stated the state says they need to be adopted in a reasonable time period.

Burk stated he believes the bigger cities are not doing this because it is a burden on the community. He is not saying that this is not good, but you have to take these things in small bites. We are way ahead of the game. He cannot support this because he knows the state will give us time to get these passed. He would like to know why Oklahoma City and Tulsa don't pass this.

Rogalski stated he can make some phone calls and find out the specific issues that are holding them up.

MOVED by Burk SECOND by Tanner, to table. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

26. Consider approving an Ordinance pertaining to Itinerant Vendors amending the definition of an itinerant vendor and prohibiting all activities of itinerant vendors within the City of Lawton by amending Sections 7-12-1-1201 and 7-12-1-1202 and repealing Sections 7-12-1-1203 through 7-12-1-1218, Division 7-12-1, and pertaining to Temporary Structures and Uses by establishing a temporary use category for itinerant merchants who wish to operate temporarily on commercial property, amending the temporary use regulations for promotional activities of existing retail merchants, and establishing temporary use regulations for promotional activities of existing non-retail businesses by establishing Section 7-12-2-1249, and amending Sections 7-12-2-1250 and 7-12-2-1251, Division 7-12-2, Article 7-12, Chapter 7, Lawton City Code, 2005, providing for renumbering and severability. Exhibits: Ordinance No. 14-___. **STRICKEN FROM AGENDA**
27. Consider approving a Resolution pertaining to Itinerant Vendors and Temporary Structures and Uses by repealing Article A-7-12 in its entirety and amending Article A-7-12-2, Appendix A, Schedule of Fees and Charges, Lawton City Code, 2005. Exhibits: Resolution 14-___. **STRICKEN FROM AGENDA**

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Burk stated he has had a lot of people talking about the turn lanes throughout the city and how the striping is really bad. He questioned the plan.

Ihler stated they had a new machine in capital outlay last year and with the budget conditions so bad, they stopped all capital outlay. There was no capital outlay in this year's budget expect for rolling stock. He feels that this has become a safety issue so he has spoken with the City Manager and asked if they could transfer funds and they are in the process of going through the spec committee and going out to bid.

Burk stated he is on the board for Lawton Community Theatre. He does have tickets for their fundraiser.

Tanner stated he attended a meeting sponsored by the Salvation Army for those organizations that help combat poverty in Lawton. He stated there are a lot of needs in the county and city and it was good to see different professional and religious based groups come together.

Wells stated he has a constituent that spend the night out at Robinson's Landing and had trouble trying to pay his fees.

COL Waters announced on Friday, April 4th Fort Sill will host the annual Special Olympics, on Friday, April 25th there will be a free concert with Big and Rich. On Sunday, May 11th they will hold a polo match.

Mayor Fitch reported on Lawton-Fort Sill Day at the Capitol. He stated 60-70 people attended.

The Mayor and Council convened in executive session at 7:09 p.m. and reconvened in regular, open session at 7:49 p.m. Roll call reflected all members present.

BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

28. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending case in Comanche County District Court of Kerry Fryer-Price vs. City of Lawton, CJ-2012-278, and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item #28. No action was taken.

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

Jensen read the title of item #29.

MOVED by Wells SECOND by Bellino-Hall to accept the Lawton Police Department report of an investigation submitted by the Fidelis Group and in our capacity as policy makers for the City of Lawton direct the City Manager and Police Chief to implement the recommendations in the report in consultation with the Fidelis Group. Direct the City Manager and Police Chief to provide monthly status reports on their progress in implementing the recommendations, make the report of investigation available to the public for their review and copying as other city records are made available and to continue the council committee appointed to monitor the investigation for the purpose of monitoring, implementation of the reports recommendations.

Burk stated as part of the committee, they felt it was very important that they have a report that is implemented. They have requested that the committee still be in place and help oversee the implementation of the recommendations. He was very proud to serve on the committee and Fidelis did an excellent job. They believe that this will change a lot of things within the police department.

Bellino-Hall stated she was impressed with the Fidelis Group, they are intuitive and this is an excellent report which will change the face of this police department and the way the community responds to this police department. This is a huge step.

Mayor Fitch thanked Burk, Wells, Bellino-Hall and Jackson for serving on the committee. He stated this is a giant first step in resolving some issues we have that are now visible. We have a manner in which we are going to address and implement these recommendations. He thanked the council for endorsing this policy.

VOTE ON MOTION: AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

There being no further business to consider, the meeting adjourned at 7:53 p.m. upon motion, second and roll call vote.

FRED L. FITCH, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK