

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
FEBRUARY 28, 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 6:03 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Minister Jim Roberts, 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
 Doug Wells, Ward Eight

ABSENT: V. Gay McGahee, Ward Seven

PRESENTATION OF OUTSTANDING CITIZEN OF COMANCHE COUNTY TO
MICHAEL TENIS

Mayor Fitch presented a Certificate of Commendation from the Mayor's Office to Michael Tenis.

PROCLAMATION FOR MULTIPLE SCLEROSIS EDUCATION AND AWARENESS
MONTH

Mayor Fitch proclaimed April 2017 as Multiple Sclerosis Education and Awareness month. The event walk is scheduled for Saturday, April 29th at 10 a.m. at Lawton High School.

AUDIENCE PARTICIPATION:

Jamie Hensley, Back Porch, 1925 W. Gore, stated she received an email today saying that they were denied a sound permit for their St. Paddy's Day event on March 17th and she would like the council to reconsider.

Jackson stated he has been involved in this issue and he has set up a meeting for next week for the necessary people involved to sit down and talk about this issue. They are working on it and they will have an opportunity to sit down and have their voices heard.

Davis stated he also has been talking with these folks as well. He is not satisfied to just kick it down the road and not find out what the final outcome is. He would like to dig into this and find out exactly why they were denied the permit.

Ms. Hensley stated the email stated that last year they had numerous noise complaints and that they did not comply and an officer showed up. She stated when the officer showed up they were told to shut down by 10 p.m. and they did. She stated multiple complaints came from one house and that person does not live there anymore.

Mayor Fitch stated there will need to be some discussion with staff.

Davis stated the one who denied the permit was the Chief of Police and he would like to ask him a couple questions as to why they were denied.

Wells stated they cannot take any action on this issue since it is not on the agenda.

Davis stated they can ask questions.

Mayor Fitch stated the council cannot come up with any solutions no matter what the question.

Davis stated they at least deserve to have this issue questioned and get some answers. They have showed up here tonight to get some answers and they could at least ask some questions.

Wells stated a meeting is scheduled next week to try and get the answers.

Davis stated that is why they are here right now.

Mayor Fitch stated that is not why they are here, it is not an agenda item and they cannot go into detail about it. If there is a problem then staff needs to be involved in the meeting and they can either issue the permit or they won't issue the permit.

Tanner requested the Chief of Police come to the podium and speak on this issue.

Chief James Smith, Lawton Police Department, stated he denied the sound permit because he checked with dispatch and last year they had numerous complaints from neighbors about noise and parking in the street. Last year this event was held in the middle of the week and they received numerous calls because the neighbors were trying to get to sleep. He stated officers went out there several times and they would not comply. They did shut down at 10 p.m. but they did not lower their sound at all when the officers requested they cut down on the noise.

Davis questioned if a citation was issued to the restaurant.

Chief Smith stated no.

Davis questioned if they were violating an ordinance.

Chief Smith stated they were asked to lower the noise but no citation was issued.

Davis questioned if they were violating an ordinance.

Chief Smith stated it was about the noise ordinance.

Mayor Fitch stated the parking would have been a violation of an ordinance.

Wells stated the noise level was also a violation of the city ordinance. The officer used his discretion and did not issue a ticket, but he could have. They finally shut down and they let it go. He stated you could hear the music five or six blocks away.

Davis questioned what would be the violation when you have a noise permit.

Wells stated it is somewhere around 70 decibels.

Phillips stated it is a nuisance ordinance.

Davis questioned what level they were at if we know they were in violation.

Wells stated he does not know, but this is not the place to discuss this. They need to have a meeting to discuss this and decide on the outcome.

Davis stated that Councilmember Wells stated they were in violation and that the violation was 70 decibels.

Wells stated if he can hear the noise six or seven blocks away, then they had to be in violation.

Mayor Fitch stated they are not going to discuss this any further. There is a meeting set up with Councilmember Jackson and he suggested Councilmember Davis also be in attendance.

Davis stated he will be in attendance.

Brenda Loggins, 8314 SW Castlestone, stated she lives in Wyatt Village and someone purchased a vacant lot next to their home to build a new home. During the construction, part of their privacy fence has been removed, a 13-foot hole was dug in their backyard and their storage unit and its foundation was moved in their yard. She stated they left utility and cable wire above the ground and they are draped over the fence. She called city staff who came out and determined that there was nothing the City could do to solve the problem. She called the builder, Frank Petty with Professional Homes, and he assured her that he would restore everything on the property but it has been a year and it has not happened. She is requesting assistance from the

City to help resolve this matter. She is requesting higher standards for builders and developers and that they leave things better than they found them.

Ihler asked Ms. Loggins to meet with Mr. Rogalski from the Community Services Department.

Phillips stated she has spoken to Ms. Loggins about this issue and city staff has been involved. The help that we can give her is very limited because it is private property. She appreciates city staff getting involved.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR
MEETING OF FEBRUARY 14, 2017.

MOVED by Wells SECOND by Phillips to approve the minutes of Lawton City Council regular meeting of February 14, 2017. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, Wells. NAY: None. MOTION CARRIED.

CONSENT AGENDA

Jackson requested item #1 be considered separately. Wells requested items #7 and #8 and Tanner requested item #5 be considered separately.

MOVED by Burk SECOND by Morford to approve the consent agenda with the exception of items #1, #5, #7 and #8. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, Wells. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for approval: Fabian and Cynthia Turner in the reduced amount of \$160.00; Southwestern Bell Telephone dba AT&T Oklahoma in the reduced amount of \$328.74; and, Billy and Brenda Dunford in the reduced amount of \$482.99 (**Res. 17-16**). Exhibits: Legal Opinions/Recommendations and Resolution No. 17-____.

Jackson stated on the Billy and Brenda Dunford claim, the City of Lawton did damage to their utility trailer and the City has made an offer at a considerably reduced amount of \$482.99 which is based on depreciation. This concerns him because they had nothing to do with the damage of their trailer. The City admitted total responsibility for the damage and now we want to take off 8 years of depreciation from these citizens. The initial claim to replace the trailer was \$979.91 and he feels they should be made whole.

Jensen stated the \$979.91 was a high estimate. There were two estimates. We are using the same practices we use on a sewer backup or anything else, we always consider depreciation.

Jackson stated he does not feel that is appropriate at this time. He does not have any trouble with the second estimate of \$762.99.

Tanner questioned if the trailer is still usable.

Kelea Fisher, Assistant City Attorney, stated the trailer is not usable.

MOVED by Jackson SECOND by Tanner to approve the damage claim of Billy and Brenda Dunford in the amount of \$762.99 (**Res. 17-16**). AYE: Jackson, Davis, Burk, Tanner, Phillips, Wells. NAY: Morford. MOTION CARRIED.

MOVED by Jackson SECOND by Burk to approve the damage claims of Fabian and Cynthia Turner in the reduced amount of \$160.00 and Southwestern Bell Telephone dba AT&T Oklahoma in the reduced amount of \$328.74. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, Wells. NAY: None. MOTION CARRIED.

2. Consider the following damage claim recommended for denial: Predrag Jekic in the amount of \$80.00. Exhibits: Legal Opinions/Recommendation.
3. Consider adopting a resolution ratifying the action of the City Attorney and the City Manager in making payment on the judgment in the Workers' Compensation case of Quinton Fixico in the Workers' Compensation Court of Existing Claims, Case No. 2016-03791L. Exhibits: **Resolution 17-17**.
4. Consider approving a request for the City of Lawton to Co-sponsor the 2017 Open Streets Lawton Fort Sill events scheduled for April 22, 2017 and October 28, 2017, within the downtown area to include the provision of necessary services as appropriate. Exhibits: None.
5. Consider approval of a resolution amending the City of Lawton FY 16-17 budget by transferring eighty thousand dollars (\$80,000.00) from fund thirty-five (35) to the Abatement & Demolition account (a/c; 035-0097-000-00-02311099). Exhibits: Resolution 17-__.

Tanner questioned what was fund 35.

Ihler stated fund 35 is an account set up when we have multiple years of income coming in and projects that carry over multiple years. In this particular case, when we receive funds from liens on properties we put it in fund 35.

Tanner questioned if fund 35 can only be used for abatement type projects or can it be used for general repairs.

Ihler stated if there are projects that will carry over into the next year they can put the money that was budgeted for that fiscal year into fund 35 then it will carry over to the next year so that we have the money.

Tanner questioned how much money is in fund 35.

Ihler stated he is not sure.

Morford stated the money from the abatement is collected and it goes into fund 35. He stated it is not fair that it does not go back into the neighborhood services account.

Ihler stated when they set up an account for abatement, all of the funds that we receive from that go into this account and we are able to roll it into the next year. When we establish the budget for weeds and abatement, we estimate the amount, but if they need additional money they can go back to fund 35 and transfer back into their budget.

Mayor Fitch stated the money that goes into the account for abatement has to come out for abatement.

Tanner stated he was just curious if there were alternative uses for this fund. We have a wading pool that needs a little bit of maintenance.

MOVED by Tanner SECOND by Morford to approve **Resolution 17-18** amending the City of Lawton FY 16-17 budget by transferring \$80,000.00 from fund 35 to the Abatement & Demolition account (a/c; 035-0097-000-00-02311099). AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, Wells. NAY: None. MOTION CARRIED.

6. Consider accepting donation of \$2500.00 to purchase service award incentive items for Lawton Police Department. Exhibits: None.
7. Approve a resolution authorizing the execution and delivery of an equipment lease/purchase agreement with Banc of America Public Capital Corp. for the acquisition, purchase, financing and leasing of certain equipment to be used in the implementation of Amendment #3 to the 2008 Chevron energy performance contract with OpTerra ES (formerly Chevron ES), and authorize the Mayor and City Clerk to execute the lease/purchase agreement. Exhibits: Resolution 17-___. Equipment Lease Purchase Agreement is on file in City Clerk's office.

Wells stated in the second paragraph under the background it talks about offering to finance through a lease/purchase agreement from \$3,005,409.00 to \$2,868,352.00. He questioned if that was the amount we were borrowing.

Ihler stated the amount we are borrowing is the \$2,868,352.00.

Wells questioned the amount of the total contract.

Ihler stated by the time we are through paying interest the payment to the lessor will be \$3,549,545.00.

Wells stated originally we were going to save a little over \$100,000 and now we are going to be behind on it.

Ihler stated when you look at item #8 on the proforma, the net savings is \$133,830. Since December they have been negotiating some contracts with Quasar and Fidelity and back then

they were looking at an escalated clause for the cloud fee by 3.5% every five years and they were able to negotiate it down to 3% so there are some additional savings and some things have changed since December.

Wells stated the total payback in December was not \$3,548,000.

Ihler stated he recalls that the net savings is now greater than what we had back in December because of these changes.

Wells stated in the resolution under the fourth whereas it reads “the agreement and the documentation relate to the financing of the equipment for the purchase, acquisition and leasing of the equipment”, he questioned if we were leasing part of this and not doing a lease/purchase on it.

Tim Wilson, Deputy City Attorney, stated over 15 years the equipment is being obtained and is being installed as part of OpTerra agreement. It is being financed through a 15 year lease purchase agreement so money will be deposited to an escrow account and OpTerra will then use that money.

Wells questioned if we will own the equipment and any related data at the end of the 15 years.

Wilson stated yes except for the servers which we cannot own because of the licensing issue but we will be utilizing them during this period.

Wells stated we are not purchasing the servers.

Wilson stated we cannot legally purchase if there is software on them so we cannot obtain title to the servers. All the other equipment we will own.

Wells stated the servers are the most expensive part other than the phone system. What do we do if we don't extend the lease when it is up, do they just come in and remove the servers and we lose the data?

Wilson stated BOA will not have a security interest in those servers and they have agreed to that.

Jensen stated we cannot lawfully own the servers and at the end the 15 years we are going to owe some money to somebody for something.

Wells stated we are using these servers for the cloud and all that data that will be stored in the cloud.

Geoffrey Howland, Regional Sales Manager from OpTerra Energy Services, stated this is a lease/purchase so some 80% of the equipment will be owned by the City. The cloud part is a server solution where a server farm has a collection of servers that they lease out the use to clients which is why they call it the cloud. The data, applications and everything associated with it are very transportable because that is what the industry is based upon. At the end of that

period of time, if the City would choose to continue with cloud service, then it would continue with Quasar. If the City decided to go with another entity it is easy to migrate all that data to another service.

Wells stated that basically we are renting space on their servers.

Mr. Howland stated that is correct.

Tanner stated we are basically reducing the amount of the lease/purchase by about \$137,000.

Ihler stated that is correct.

Wells stated we are saving additional money and that is why the price came down.

MOVED by Wells SECOND by Morford to approve **Resolution 17-19** authorizing the execution and delivery of an equipment lease/purchase agreement with Banc of America Public Capital Corp. for the acquisition, purchase, financing and leasing of certain equipment to be used in the implementation of Amendment #3 to the 2008 Chevron energy performance contract with OpTerra ES (formerly Chevron ES), and authorize the Mayor and City Clerk to execute the lease/purchase agreement. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, Wells. NAY: None. MOTION CARRIED.

8. Consider approving Amendment #3 to the 2008 Chevron energy performance contract with OpTerra ES (formerly Chevron ES), subject to Council also approving a lease purchase agreement with Banc of America Public Capital Corp, and once Council approves the lease/purchase agreement, authorize the Mayor and City Clerk to execute Amendment #3. Exhibits: Amendment #3 is on file in the City Clerk's office. Copy of Financial Proforma (Phase 3).

Wells stated with the approval of item#7, does that take care of the need to come back before the council on item #8.

Ihler stated that is correct. We will have some agreements that we are going to have to do with Quasar and Fidelity that will be coming back but it does not require us to bring these back..

MOVED by Tanner SECOND by Wells to approve Amendment #3 to the 2008 Chevron energy performance contract with OpTerra ES subject to Council also approving a lease purchase agreement with Banc of America Public Capital Corp, and once Council approves the lease/purchase agreement, authorize the Mayor and City Clerk to execute Amendment #3. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, Wells. NAY: None. MOTION CARRIED.

9. Consider approving the purchase of a motion sensitive camera system to be installed at the Highland Cemetery and the appropriation of \$4,830 from the Cemetery Care Fund for said purchase. Exhibits: System overview and state contract quote.

10. Consider approving the record plat for the Replat of Lot 2, Block 1, Independence Place. Exhibits: Plat Map.
11. Consider approving the construction plat for Lawton Marketplace, Part 2, subject to conditions. Exhibits: Plat Map.
12. Consider approving Amendment No. 6 to the March 14, 2011 agreement with CH2MHill Engineers, Inc. for professional engineering design services, to evaluate, make recommendations, and design the rehabilitation and reconstruction of Ellsworth Spillway. Exhibits: Amendment to the agreement is on file in the City Clerk's office.
13. Consider authorizing staff to prepare a Request for Proposal (RFP) for the City of Lawton's Vision Insurance Provider. Exhibits: None.
14. Consider extending contract for Laboratory Services for Toxic Pollutants to Accurate Environmental Labs of Stillwater, OK for an additional year. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.
15. Consider approving appointments to boards and commissions. Exhibits: None.

Citizens' Committee On Capital Improvement Program (CIP)

Don Nelson
1101 NW 31st Street
Lawton, Oklahoma 73505
03/25/2020
Existing Member

Sammie Powell, Jr.
5326 NW Rotherwood Drive
Lawton, Oklahoma 73505
04/08/20
Existing Member

Historical Preservation Commission

Bob Ross
513 SW C Avenue
Lawton, Oklahoma 73501
01/11/19
New Appointment

Richard Smith
1207 Lake Avenue
Lawton, Oklahoma 73507
03/12/19
Existing Member

John Jones
4301 NW Cache Road
Lawton, Oklahoma 73505
01/27/19
Existing Member

Kent Jester
1125 NW Elm
Lawton, Oklahoma 73507
Unexpired Term 09/10/17
New Member

16. Consider approval of payroll for the periods of February 13 –26, 2017.

NEW BUSINESS ITEMS:

17. Hold a public hearing and consider an ordinance changing the zoning from R-3 Multiple-Family Dwelling District to C-5 General Commercial District zoning classification on

property located at 1803 SW Sheridan Road. Exhibits: Ordinance 17-__ with Site Plan, Location Map, Application and CPC Minutes.

Richard Rogalski, Community Services Director, stated this request is for a tract measuring 297.5 feet by 148.75 feet located in Block 1 of Tropes Subdivision, north of Wolf Street and west of SW Sheridan Road. The property owners, Leonard and Romaine Payne, are selling three tracts which are adjacent to each other. The tract adjacent to Sheridan Road is currently zoned C-5, and the buyer wants the tract currently zoned R-3 to be rezoned to C-5. The third tract is zoned I-1. Initially the buyer wanted all three tracts zoned C-5; however, the request was amended to rezone only the R-3 tract to C-5 and leave the I-1 tract as I-1. The zoning of the surrounding area is I-1 and R-3 to the north, I-1 to the south, C-5 to the east, and R-3 to the west. The land use of the surrounding area is roofing company and storage yard to the north, vacant tract to the south, auto repair shop, and auto detail shop to the east, and vacant land to the west. The 2030 Land Use Plan designates this area as Industrial. The City Planning Commission held a public hearing on January 26, 2017, on this request. During the public hearing the applicant amended the request to rezone only the R-3 tract to C-5. The CPC, by a vote of 7 – 0, recommended approval subject to the site plan being revised to show the proposed uses as only uses permitted in the C-5 district. The site plan has been revised meeting this condition.

Phillips stated this is a big jump from R-3 to C-5 and she questioned if there are residences anywhere on the property.

Rogalski stated the existing use does not comply with R-3 zoning. The adjacent tract is vacant and the whole area is transitioning to industrial and staff would favor I-1, so C-5 is a zoning lower than I-1.

Phillips questioned if there is one owner.

Rogalski stated yes and they do have a buyer and that buyer wanted it to all be C-5.

Tanner questioned what businesses are currently on the property.

Rogalski stated there a number of miscellaneous industrial type of uses.

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

MOVED by Tanner SECOND by Jackson to adopt **Ordinance 17-05**, waive the reading of the ordinance, read the title only. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, Wells. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 17-05

An ordinance changing the zoning classification from the existing classification of R-3 Multiple-Family Dwelling District to C-5 General 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. Hold a public hearing and adopt a resolution declaring the structures located at 403 SE Larrance Road (**Res 17-20**), 803 SW D Avenue (**Res 17-21**), 740 SW 46th Street (**Res 17-22**), 1718 NW Irwin Avenue (**Res 17-23**), 2224 NW Pollard Avenue (**Res 17-24**), 2802 NW 25th Street (**Res 17-25**), 3817 SE Camelot Avenue (**Res 17-26**) and 912 SW D Avenue (**Res 17-27**) to be dilapidated and a public nuisance, ordering the owner to abate the nuisance, authorizing summary abatement, and authorizing the City Attorney to commence legal action in District Court to abate the nuisance. Exhibits: Resolutions and exhibits for each property.

403 SE Larrance Road

Joshua Leach, Neighborhood Services Supervisor, reported the numerous violations of city code existing on the property are documented on the Property Maintenance Evaluation Sheet. He stated this is owned by the City of Lawton but we are having the hearing to give potential heirs who used to have title to the property a chance to come forward. Leach presented photographs of the property

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

MOVED by Burk SECOND by Jackson, to adopt **Resolution 17-20** declaring the structure located at 403 SE Larrance Road to be a dilapidated public nuisance. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, Wells. NAY: None. MOTION CARRIED.

803 SW D Avenue

Leach reported the numerous violations of city code existing on the property are documented on the Property Maintenance Evaluation Sheet. He stated the utilities are active but they are in the name of the former owner who passed away in 1995. Leach presented photographs of the property.

Tanner stated the owner of the property is an elderly lady who has fallen ill and is in Oklahoma City. Other than people breaking in and vandalizing the property, it is a nice old home and he would hate to see it torn down. He questioned if staff has spoken to any of her relatives.

Leach stated yes and they do not want anything to do with the property.

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

MOVED by Burk SECOND by Jackson, to adopt **Resolution 17-21** declaring the structure located at 803 SW D Avenue to be a dilapidated public nuisance. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, Wells. NAY: None. MOTION CARRIED.

740 SW 46th Street

Leach 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 January 2010. Leach presented photographs of the property

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

MOVED by Davis SECOND by Tanner, to adopt **Resolution 17-22** declaring the structure located at 740 SW 46th Street to be a dilapidated public nuisance. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, Wells. NAY: None. MOTION CARRIED.

1718 NW Irwin Avenue

Leach 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 2015. Leach presented photographs of the property

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

MOVED by Jackson SECOND by Wells, to adopt **Resolution 17-23** declaring the structure located at 1718 NW Irwin Avenue to be a dilapidated public nuisance. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, Wells. NAY: None. MOTION CARRIED.

2224 NW Pollard Avenue

Leach 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 2015. Leach presented photographs of the property

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

MOVED by Jackson SECOND by Wells, to adopt **Resolution 17-24** declaring the structure located at 2224 NW Pollard Avenue to be a dilapidated public nuisance. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, Wells. NAY: None. MOTION CARRIED.

2802 NW 25th Street

Leach 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 2016. Leach presented photographs of the property

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

MOVED by Morford SECOND by Wells, to adopt **Resolution 17-25** declaring the structure located at 2802 NW 25th Street to be a dilapidated public nuisance. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, Wells. NAY: None. MOTION CARRIED.

3817 SE Camelot Avenue

Leach 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 2008. Leach presented photographs of the property

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

MOVED by Burk SECOND by Wells, to adopt **Resolution 17-26** declaring the structure located at 3817 SE Camelot Avenue to be a dilapidated public nuisance. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, Wells. NAY: None. MOTION CARRIED.

912 SW D Avenue

Leach reported the numerous violations of city code existing on the property are documented on the Property Maintenance Evaluation Sheet. He stated the property has no record of utilities. Leach presented photographs of the property

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

MOVED by Tanner SECOND by Morford, to adopt **Resolution 17-27** declaring the structure located at 912 SW D Avenue to be a dilapidated public nuisance. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, Wells. NAY: None. MOTION CARRIED.

19. Consider an ordinance pertaining to Offenses Against Public Authority Section 16-6-1-615, Division 16-6-1, Article 16-6, Chapter 16, Lawton City Code 2015, by updating the language relating to the removal of barricades on streets, sidewalks, etc.; inserting language relating to the entrance of barricaded areas; providing criminal and civil penalties; providing for severability, and establishing an effective date. Exhibits: Ordinance 17-__.

Jensen stated in our current version of the city code on barricades on streets, sidewalks or highways, all we currently address as a misdemeanor offense is the removal of the barricades. The state law changed last year to beef up state statute on the same topic and the proposed language in paragraph A is “When any highway, street, pavement, curb, sidewalk, or other area has been closed due to flooding, repair, maintenance or construction, and traffic control devices or barricades have been erected, it shall be unlawful for any person to drive any vehicle through, under, over, or around the traffic-control devices or barricades, to otherwise to enter the closed area or remove any barricades”. We are adding two additional components of what you shouldn’t be doing as far as barricades to keep you out of a certain area. Paragraph B states “Any person found to be in violation of subsection A shall, upon conviction, be guilty of a misdemeanor. Any persons convicted shall be ordered to pay restitution in an amount equal to the actual costs of the emergency response and repair or replacement of any damaged or lost emergency equipment. In addition, the person shall be liable for any damage to property or injury or death to persons caused by the violation”. So if somebody moves or goes around a barricade and we have to engage in a rescue, this proposed version would allow the judge to order restitution for our costs.

Phillips stated this moves from being a misdemeanor to a felony.

Jensen stated no, we don't have any felonies in the Lawton City Code, our municipal court handles misdemeanors only. What we have here are two additional components of not just removing a barricade, but we are adding if you go around the barricade, if you remove the barricade or you otherwise enter the area, that is an offense. The barricade is there for a reason. The only thing that changes as far as punishment is that if you are convicted of doing this, now you shall also pay restitution if we have to engage in a rescue attempt or take some other action because of what you did that causes us to lose staff time, equipment, etc.

Phillips stated if a person were to die because of this barricade being removed, then this person who removed the barricade would be responsible for that death.

Jensen stated there is also a provision that says the person who engages in these activities that are prohibited shall be liable for any damage to property or injury or death to persons caused by the violation.

Wells stated in that case the District Attorney would file charges.

Davis stated if someone drives around an barricade and does not damage any property or cause any harm, will they be issued a citation or is this only covering if they cause damage.

Jensen stated as far as the damage, that is a separate element for restitution. If a judge finds you guilty of one of the three offenses you can receive a criminal fine. The extra element in paragraph B is that if we incur expenses, that is an extra civil element of restitution that the judge can order.

Davis stated if this passes, the police will come up with a fine.

Jensen stated the fine will be set by the judge.

Wells stated it is already in the ordinance that if you drive around a barricade and a police officer sees you he can write a ticket and fine you.

Jensen stated our current version is limited to "it is unlawful for any person to remove any barricade or obstruction placed by authority to keep traffic off of any paved street, curb, sidewalk or other area". That is all we have right now. The state found some loopholes in what should be prohibited and now we will mirror what they are saying.

Tanner requested some clarification on the definition of a barricade.

Jensen stated this refers to traffic related barricades.

MOVED by Wells SECOND by Tanner to adopt **Ordinance 17-06**, 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, Wells. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 17-06

An ordinance pertaining to offenses against public authority Section 16-6-1-615, Division 16-6-1, Article 16-6, Chapter 16, Lawton City Code 2015, by updating the language relating to the removal of barricades on streets, sidewalks, etc.; inserting language relating to the entrance of barricaded areas; providing criminal and civil penalties; providing for severability, and establishing an effective date of thirty days from today.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

J.I. Johnson, Finance Director, presented revenue and expenditure highlights for period ending January 31, 2017. (On file in the City Clerk's office).

Wells stated he attended an economic development luncheon today sponsored by PSO. He stated the speaker was Jay Garner with Garner Economics from Atlanta. He stated it really goes along with the briefing from Dr. Thomas. He stated a company will always look at social media sights on a location and if there are arguments in the community they are immediately knocked off the list for consideration. He recommended they all sit down and talk about issues and work out any problems we have instead of putting them on social media. He stated shell buildings are the second most important thing you can do. It was a great presentation.

Phillips stated last week she had her post construction meeting with the planning division and for anyone who wants to build or remodel, they should attend pre-development meetings and the post-construction meetings. They help keep you out of trouble.

Morford stated last Saturday they had a general aviation meeting and the T-hangers are full and they are looking at building more hangers. He stated LaSill asked to be released from their lease and the City is taking this over. Things are going pretty well at the airport and he has asked for a report on the aircraft that land because it is interesting to see the companies that come here.

The Mayor and Council convened in executive session at 7:34 p.m. and reconvened in regular, open session at 8:05 p.m. Roll call reflected all members present.

EXECUTIVE SESSION ITEMS:

20. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending action involving Williams Painting & Sandblasting, Inc. for the Industrial Elevated Tank & East Elevated Tank Re-painting Project, and take appropriate action in open session. Exhibits: None.

Jensen read the title of item #20.

MOVED by Tanner SECOND by Burk that the City notify Williams Painting & Sandblasting, Inc., and its surety of the intent to terminate its contract, and if corrections satisfactory to the City are not made within ten days, the contract shall be terminated, and the City Engineer shall be authorized to solicit bids to complete the project, file any necessary claims against the

performance and maintenance bonds, and the City Attorney shall be authorized to file suit as necessary to recover any and all monetary and other damages suffered by the City. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, Wells. NAY: None. MOTION CARRIED.

21. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to review the employment of Traci L. Hushbeck as City Clerk, 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 approve a contract with a 2.5% pay increase. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, Wells. NAY: None. MOTION CARRIED.

There being no further business to consider, the meeting adjourned at 8:08 p.m. upon motion, second and roll call vote.

FRED L. FITCH, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK