MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
APRIL 14, 2009 – 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor John P. Purcell, Jr.
Presiding

Also Present:
Larry Mitchell, City Manager
Frank Jensen, City Attorney
Traci Hushbeck, City Clerk

Mayor Purcell called the meeting to order at 6:08 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Pastor Kevin Bradley, Sr., Pentecostals of Lawton, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:
Bill Shoemate, Ward One
James Hanna, Ward Two
Jay Burk, Ward Four
Robert Shanklin, Ward Five
Richard Zarle, Ward Six
Stanley Haywood, Ward Seven
Doug Wells, Ward Eight

ABSENT:
Janice Drewry, Ward Three

ROLL CALL

PRESENTATION OF CITIZEN OF THE MONTH FOR MARCH 2009 TO MARY SCREEN.

Sandra Kuntz, Chairman of the Mayor' s Commission on that Status of Women announced that Mary Screen has been named Citizen of the Month for March 2009.

Mayor Purcell read a Certificate of Congratulations from the State of Oklahoma and a Certificate of Commendation from the Mayor' s Office.

PROCLAMATION FOR NATIONAL PUBLIC SAFETY TELECOMMUNICATIONS WEEK

Mayor Purcell proclaimed the week of April 12-18, 2009 as National Public Safety Telecommunications Week.

AUDIENCE PARTICIPATION:

Lisa Roundtree, 20 SW 45th Street, stated she has a complaint against the water department. She turned on the water for one of her properties on February 16th. On February 19th she received her first bill for $73.31. She was told by Revenue Services that it would be taken care of. On March 16th she received a bill for $126.62. She was told by Revenue Services that it would be taken care of and they charged her $73.31. On April 8th she received her final bill of $81.30. She was told she had to pay $53.31 for 12 days in February and 31 days in March. She was told they will not prorate and she has to pay two months. She stated that PSO and the gas company read her meter and they charged her for the amount she uses. Why does the City make her pay for a full month when she only used the water for half the month. She hopes the City Council will look into this.

Hanna stated this problem was brought to him last week and the Assistant City Manager and City Manager looked into this. He questioned if Ms. Roundtree was charged a late fee.

Ms. Roundtree stated she was charged a $7.99 late fee plus a set up fee twice totaling $40. She stated there is a problem.

Mitchell stated that the Assistant City Manager met with Ms. Roundtree and resolved her individual issue.

Ms. Roundtree stated everyone else will have this problem. Something has to be done.

Mayor Purcell stated the City only charged Ms. Roundtree for the water she used, but there are other fees on her bill.

Ms. Roundtree stated people should only pay for what they use.

Bryon Long, Assistant City Manager, introduced Trisha Thomason, the new Human Resources Director.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF FEBRUARY 10, 2009.

MOVED by Hanna, SECOND by Haywood, to approve the minutes of February 10, 2009. AYE: Shanklin, Haywood, Shoemate, Hanna, Burk. NAY: None. ABSTAIN: Zarle, Wells. MOTION CARRIED.

CONSENT AGENDA: The following items are considered to be routine by the City Council and will be enacted with one motion. Should discussion be desired on an item, that item will be removed from the Consent Agenda prior to action and considered separately.

Mayor Purcell stated they need to strike #4 and pull #1, #2, #3 and #5. Burk requested items #11 and #18 and Zarle request #13 be considered separately.

MOVED by Haywood, SECOND by Shoemate, to approve the Consent Agenda with the exception of items #1, #2, #3, #4, #5, #11, #13 and #18. AYE: Zarle, Haywood, Wells, Shoemate, Hanna, Burk, Shanklin. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for approval and consider passage of the resolution authorizing the City Attorney to file a friendly suit for the claims which are over $400.00: Daniel Pinkney in the reduced amount of $1,721.73 **(RES. 09-37),** Carl and Rita Eubanks in the amount of $263.76, Bryan and Traci Pierce in the reduced amount of $3,810.00 and Barbara Stewart c/o DesRae Stewart in the reduced amount of $1,172.50 **(RES. 09-39)**. Exhibits: Legal Opinions/Recommendations and Resolution No.___.

Jensen stated they need to pull the damage claim of Bryan and Traci Pierce. They would like to renegotiate the settlement amount. Staff would recommend they approve the other three claims and bring the Pierce claim back at the next meeting.

MOVED by Burk, SECOND by Shoemate, to table the claim of Bryan and Traci Pierce. AYE: Haywood, Wells, Shoemate, Hanna, Burk, Shanklin, Zarle. NAY: None. MOTION CARRIED.

MOVED by Hanna, SECOND by Wells, to approve the claims of: Daniel Pinkney in the reduced amount of $1,721.73, Carl and Rita Eubanks in the amount of $263.76 and Barbara Stewart c/o DesRae Stewart in the reduced amount of $1,172.50. AYE: Wells, Shoemate, Hanna, Burk, Shanklin, Zarle, Haywood. NAY: None. MOTION CARRIED.

2. Consider the following damage claims recommended for denial: Harold Byrd in the amount of $1,168.00 and Christopher Tanequodle in the amount of $109.45. Exhibits: Legal Opinions/Recommendations.

Harold Byrd, 18 NW 59th Street, stated this claim was made over a fence that was taken down to hook up a sewer line. He stated a notice was left on his door concerning the fence. He spoke with Britt Hubbard, Supervisor, who told him his fence would have to come down and they would not be putting it back in place. He was told by the backhoe driver that his fence was not in the way. Mr. Hubbard told him that it looked like his fence was going to be in the way but it curved out and crews made a bad call. He stated council members Wells and Shanklin came out to look at his fence. He cannot see why he would have to pay to put his fence back up when it wasn' t in the way to begin with and he was told that crews made a bad call.

Kelea Fisher, Assistant City Attorney, stated staff has investigated the claim and is recommending denial of the claim. Their recommendation is based upon four factors. The first is City Code which stated if there is an encroachment in the City' s easement, they may remove the encroachment after proper notice. Once the City takes it down, the City bears no liability. The second is Council Policy 5-3 which states the City will not pay the cost to rebuild the encroachment. The third factor is that there was actually a tap located in the fence line and the fourth factor was state law that requires that the City Council find that the crew was negligent. They found no negligence.

Buddy Bridges, Assistant Director of Sewer Rehab, stated there were two taps involved in the limits of his yard. One for the property across the easement and one for Mr. Byrd' s. In locating Mr. Byrd' s tap they actually dug under and removed one of the 4 x 4 posts, so he could not recommend that they put the fence back up because the fence was over the sewer tap they had to dig up.

Shanklin stated crews were six feet from the sewer line.

Bridges stated his tap goes under that fence.

Zarle questioned if they were referring to the tap coming off the main to the house. He stated that happens to everyone' s home.

Bridges stated if they have room on the outside of the fence to tie in without getting to the fence, they do that. In this case they didn' t.

Zarle stated crews took the whole fence down instead of just that one section.

Bridges stated they took the fence down before they dug up the taps because it appeared to them that both taps would be in that fence line.

Wells stated he went out there and he could see no way that the fence had to come down.

Bridges stated that the supervisor and the construction inspector were both in agreement that they had no other choice than to take the fence down in order to have room to connect those taps.

Mayor Purcell questioned if the entire sewer pipe was in the easement.

Bridges stated there is a 10 foot easement in Mr. Byrd' s yard for the sewer line. There is no question that his fence was in the easement. Even the gas meters were up in his yard behind the fence.

Burk stated if he was the person on the job he probably would have taken the fence down also because everything is so hard to find and you have to have a backhoe dig this out.

Mr. Byrd stated that Mr. Hubbard did tell him that they made a bad call.

Shanklin questioned why they had to take the entire fence down.

Bridges stated they did not know where the two taps were. They knew they were in the limits of Mr. Byrd' s 65-foot width back of lot. They knew they would have to have two holes dug behind the fence and they were not sure where they could securely place the equipment. They decided the safest thing to do was take down the fence panels and try to dig between the 4 x 4 posts where necessary.

<u>MOVED by Wells, SECOND by Shanklin</u>, to approve the damage claim of Harold Byrd in the amount of $1,168.00 **(RES. 09-40)** and deny the damage claim of Christopher Tanequodle in the amount of $109.45. AYE: Shanklin, Zarle, Haywood, Wells, Shoemate, Hanna, Burk. NAY: None. MOTION CARRIED

3. Consider authorizing application and acceptance of the 2009 Department of Justice Edward Byrne Assistance Grant (JAG) which is part of the Federal Stimulus Package for Oklahoma. Exhibits: None.

Chief Ronnie Smith, Lawton Police Department, stated they just need to approve the application, not the acceptance. He stated this is stimulus money for equipment.

Wells questioned if this would cover the cost of the uniforms, weapons and all of the equipment for the twelve officers in item #5.

Chief Smith stated he was not sure what all this would cover.

Wells stated item #5 is just for salaries.

Chief Smith stated it is for salaries and benefits. No equipment.

Wells stated they need to start thinking, as these grants are approved, how they are going to come up with $300,000 to buy this equipment.

Mayor Purcell stated this is a grant for specific equipment.

Chief Smith stated if they get this grant they will come back to the City Council to approve the list of equipment. The equipment also has to be approved by the federal government.

Wells stated he completely supports items #3 and #5, but they need to think about the amount of money they will have to come up with if they get these two grants which is about $300,000 just for equipment.

Mitchell stated one is not connected to the other.

Wells stated he was just wondering if they could be connected.

Mitchell stated they do not know, it is still too early to know. The City Council will have to approve the acceptance of the grant and maybe they will know more by that time.

Hanna questioned if they could buy vehicles.

Chief Smith stated just certain vehicle.

Mitchell stated they cannot buy police cruisers.

Hanna stated it costs about $100,000 to put a police office on the street. After three years the burden will fall back on the Council and will they have the money to do this?

Mitchell stated all of the indirect costs will be associated with item #5 and they know that they have received applications for 4,500 officers, so the reality of us getting all 12 officers will be slim.

MOVED by Wells, SECOND by Hanna, to authorize the application of the 2009 Department of Justice Edward Byrne Assistance Grant (JAG) in the amount of $519,196. AYE: Zarle, Haywood, Wells, Shoemate, Hanna, Burk, Shanklin. NAY: None. MOTION CARRIED

4. Consider approving a request to enter into a Memorandum of Understanding with Comanche County and the City of Lawton Police Department accepting the conditions of the Justice Edward Byrne Assistance Grant as provided by the 2009 Federal Stimulus Package for Oklahoma. Exhibits: None.

5. Consider authorizing application and acceptance of the 2009 Community Oriented Policing Grant (COPS). Exhibits: None.

Burk stated we need more officers and we need to find a way to fund it. We need everything they are going to give us and we need to figure out a way to fund it while being progressive and think about the future of Lawton.

MOVED by Wells, SECOND by Haywood, to authorize the application of the 2009 Community Oriented Policing Grant with the stipulation that if the grant is approved, the City Manager identify the funding for the equipment that will be needed. AYE: Haywood, Wells, Shoemate, Hanna, Burk, Shanklin, Zarle. NAY: None. MOTION CARRIED

6. Consider accepting permanent and temporary easements from Harvey and Dorothy Jenkins, husband and wife, and Gary and Ann Tubbs, husband and wife, which are needed for the Numu Creek Bridge Replacement Project # 2008-15, authorizing the Mayor and City Clerk to execute the easements. Exhibits: Location map. Easements are on file in the City Clerk' s Office.

7. Consider accepting a permanent easement from Guy and Betty Dodd, husband and wife for additional right of way needed for the NW 67th Street Reconstruction (Cache Road to Rogers Lane) Project # 2003-7, authorizing the Mayor and City Clerk to execute the document and authorizing payment in the amount of $700.00. Exhibits: Location map. Easement is on file in the City Clerk's office.

8 Consider accepting a Warranty Deed from Summit Village, L.L.C for street right-of-way on Southwest 52nd Street, and authorizing the Mayor and City Clerk to execute the deed. Exhibits: Location map. Warranty deed is on file in the City Clerk's office.

9. Consider accepting temporary construction permits for improvements related to the Fort Sill Apache Casino project located at 2401 East Gore Boulevard. Exhibits: Temporary Construction Permits on file in City Clerk' s Office.

10. Consider adopting a Resolution authorizing the installation of traffic control measures on NW Parkview Boulevard at the intersection of NW Cherry Avenue; and on NW Laird Boulevard; E Gore Boulevard between I-44 and NE Flower Mound Road; NW Cherry Avenue at the intersection of NW 16th Street. Exhibits: Traffic Commission Minutes, Traffic Issue Requests, and **Resolution No. 09-41**.

11. Consider denying the requests for traffic control measures on NE Kingsbriar Drive at the intersection of NE Fieldcrest Drive; NW Bell Avenue at the intersection of NW 15th Street. Exhibits: Traffic Commission Minutes and Traffic Issue Requests.

Burk stated he has a lot of constituents on NE Kingsbriar that are having some problems with speeding. He has contacted the Police Chief. He does not know what to do about these major traffic issues and hopes they look at something to solve this problem.

Jerry Ihler, Public Works Director, stated in the reports section he will be distributing some information on their neighborhood traffic management and calming program. The criteria is going to be local streets or collectors that have a 25 mph speed limit. This may apply and perhaps Kingsbriar may warrant speed tables.

MOVED by Burk, SECOND by Hanna, to deny the requests for traffic control measures on NE Kingsbriar Drive at the intersection of NE Fieldcrest Drive; NW Bell Avenue at the intersection of NW 15th Street. AYE: Wells, Shoemate, Hanna, Burk, Shanklin, Zarle, Haywood. NAY: None. MOTION CARRIED

12. Consider adopting **Street Light Resolution No. 459** to authorize the installation/removal of street lights at the locations listed in the Resolution. Exhibits: Street Light Resolution No. 459.

13. Consider approving contract Amendment #1 with Jacobs Consultancy for additional planning services for the Sustainable Growth Study and Plan for the City of Lawton. Exhibits: Amendment to Agreement.

Zarle questioned where the funds were coming from. Is this out of our budget?

Mitchell stated it is state money. The state appropriates about $1 million to the strategic military planning commission and the planning commission allocates dollars to each of the five military communities. This is a continuation of a federal grant that we received a year and a half ago to do a regional growth management plan.

Zarle questioned if Mr. Mitchell felt this was an advantage to us. We don' t know what will happen tomorrow with the federal government.

Mitchell stated by moving forward with this plan, we will become eligible for additional state and federal money.

Shanklin questioned how the money will be spent.

Mitchell stated the money is spent with the engineering firm that did our regional growth management plan. We have worked with them for the last 16 months under a $600,000 grant that was provided through the Department of Defense. That plan was presented to the City Council in late January.

MOVED by Zarle, SECOND by Haywood, to approve contract Amendment #1 with Jacobs Consultancy for additional planning services for the Sustainable Growth Study and Plan for the City of Lawton.

Wells questioned what other things could these funds be used for.

Mitchell stated over the last three or four years we have received money through the state planning commission to acquire conservation easements around Fort Sill and we have a pending application to receive some additional money to acquire future conservation easements. This money could be used to provide local share for transportation projects.

SUBSTITUE MOTION by Wells, to table this item for a month to discuss further and find out if there is a better use for the money.

Mayor Purcell stated if we do this, that $1 million will go to one of the other military installations. We have had people at the state capitol fighting to get us this money.

Mitchell stated this is last years' money and we have to commit this money in order to receive current budget dollars from the commission. This money has to be obligated.

Shanklin questioned if they have seen this plan.

Mitchell stated it was presented to the City Council in late January. Everyone was presented with an executive summary of that program that outlined a series of recommendations. For all of our state transportation programs, we are required to provide a local share. Typically it is a 10 or 20 percent share. If we continue with these grant programs, there is likelihood that this planning commission will provide monies to cover those local matching shares.

Wells questioned if there was any other project for which this $90,000 could be better used.

Mitchell stated the original intent of this money was going to be used to match the next OEA grant, which is a federal grant. But since we lost our comprehensive planner, we have had to readjust that program and resubmit that application. Originally it was going to pay to hire a second planner that was going to be housed in the Comanche County Courthouse to assist the local communities with some of these planning activities. The idea of this regional growth management plan was to put together a regional plan to help the smaller communities anticipate and work through the growth at Fort Sill.

Wells stated there is no other project that can use this money.

Mitchell stated that is correct.

Wells withdrew his substitute motion.

VOTE ON ORIGINAL MOTION: AYE: Shoemate, Hanna, Burk, Shanklin, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED

14. Consider extending the contract (RFPCL07-053) Health and Dental – Third Party Administrator with Blue Cross Blue Shield of Oklahoma City, OK. Exhibits: Department Recommendation, Administrative Fee Exhibit, Contract Extension Form.

15. Consider awarding (RFPCL09-038) Non-Exclusive Recycling Center Operation to Horn Sanitation of Lawton, OK. Exhibits: department recommendation, proposal sheet, Non-Exclusive Recycling Center Operation Agreement.

16 Consider awarding (CL09-042) GPS System to Midwest A&E Supply of Richardson, TX. Exhibits: department recommendation, abstract of bids.

17. Consider extending the contract (RFPCL07-052) Employee Assistance Program (EAP) with Deer Oaks EAP Services, LLC of San Antonio, TX. Exhibits: Department Recommendation, Proposal Price Bid Sheet, Contract Extension Form.

18. Consider awarding (CL09-041) Rear Load Refuse Collection Body to J&R Equipment LLC of Oklahoma City, OK. Exhibits: department recommendation, abstract of bids.

Burk questioned if this was for the big dumpsters.

Jerry Ihler, Public Works Director, stated this will be used for commercial and they will put on the rear tippers to help with the residential carts.

MOVED by Burk, SECOND by Shoemate, to award (CL09-041) Rear Load Refuse Collection Body to J&R Equipment LLC of Oklahoma City, OK. AYE: Hanna, Burk, Shanklin, Zarle, Haywood, Wells, Shoemate. NAY: None. MOTION CARRIED

19. Consider extending the contract (CL08-045) Mowing & Litter Contract II: Areas G, H, & L with Teen Challenge of Oklahoma of Cache, OK. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.

20. Consider extending the contract (CL07-033) Nuisance Abatement – East Side with Charlie's Backhoe & Demolition of Sterling, OK. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.

21. Consider approving appointments to boards and commissions. Exhibits.

Library Board
Bob Shanklin– Council
406 NW Ferris Avenue
Lawton Oklahoma 73507
Council Term

Building Materials Review Committee
Jay Burk
Councilmember
1415 NE Independence
Lawton Oklahoma 73507

Impact Fee Oversight Committee
Bill Shoemate
1726 NW 31st Street
Lawton, Oklahoma 73505
Council Term

22. Consider approval of payroll for the period of March 23 – April 5, 2009.

NEW BUSINESS ITEMS:

23. Hold public hearings and adopt resolutions declaring the structure(s) at: 411 SE Larrance Street, 911 SW "C" Avenue, 905 SW 12th Street, 1207 SW New York Avenue to be dilapidated public nuisances, thus causing a blighting influence on the community and

detrimental to the public' s health and safety. Authorize the City Attorney to commence legal action in district court to abate each nuisance. Further authorize Neighborhood Services to solicit bids to raze and remove each dilapidated structure, if necessary. Exhibits: Four resolutions. Summary documents with supporting photos, reports from the Fire Marshal, Housing Inspectors, and case history are available from Neighborhood Services.

411 SE Larrance Street

Anthony Griffith, Neighborhood Services Supervisor, presented photographs of the property.

PUBLIC HEARING OPENED.

Travis Warner, Fairmont Rentals, Inc., stated he is in the process of trying to obtain some funding to get everything fixed. They have had some vandalism and weather damage and he has run out of money. He would like to have some additional time to raise some money.

Mayor Purcell stated Mr. Warner needs to give the City Council an idea of how much time he is requesting.

Mr. Warner stated six months.

Burk stated he went to school with Mr. Warner and he has seen the plans for the creamery and it is very ambitious, but it would be a wonderful thing to have. He has a real hard time telling others they need to tear their buildings down and not doing to same here. He stated he is willing to give Mr. Warner six months, but personally he does not feel he can go more than an additional six months.

Shanklin questioned what he wanted to do with the property.

Mr. Warner stated they are looking at a restaurant, entertainment center and banquet facilities.

Shoemate stated the family has just run out of money after doing some work on the property. He stated they can get extensions if they are working on the property and that could equate to six months. He suggested we patrol that area to keep vandals off the property.

Hanna stated the Mr. Warner needs to understand that if this comes back in six months and he has not come up with the money they have no choice but to place this on the D&D list.

Mr. Warner stated he understood.

PUBLIC HEARING CLOSED.

MOVED by Haywood, SECOND by Burk, to table for six months. AYE: Haywood, Wells, Shoemate, Hanna, Burk, Shanklin, Zarle. NAY: None. MOTION CARRIED.

911 SW C Avenue

Griffith presented photographs of the property.

PUBLIC HEARING OPENED.

John Williams, property owner, stated he is the process of selling this property and was told by his realtor to not do anything because he felt if the property sold the structure would be demolished. He stated he did plan on tearing this down to allow for parking for his shop. He questioned what kind of time frame he had to tear this down.

Griffith stated Mr. Williams would have thirty days to obtain a remodel or demolition permit. If he failed to do anything within thirty days it will be forwarded to the City Attorney' s office and the costs begin to escalate. He suggested Mr. Williams take the building down within the first thirty days.

Mayor Purcell questioned how long he would have to tear the building down after he obtained a demolition permit.

Griffith stated once the permit is issued, he would have thirty days to complete the job.

Mr. Williams stated he would need a little bit more time.

Shanklin stated if he is making progress we can give him a little bit more time.

Hanna questioned if he would get reduced tipping fees.

Griffith stated if the City Council declares the structure dilapidated tonight, Mr. Williams is no longer entitled to the tipping fee discount.

PUBLIC HEARING CLOSED.

<u>MOVED by Shanklin, SECOND by Haywood</u>, to table for sixty days. AYE: Wells, Shoemate, Hanna, Burk, Shanklin, Zarle, Haywood. NAY: None. MOTION CARRIED.

<u>905 SW 12th Street</u>

Griffith presented photographs of the property. He stated they still have a temporary hook up to the power supply.

Shanklin questioned how long it has been this way.

Griffith stated on and off they have done repairs over the last three years. They have sited the property owner for several property maintenance violations.

Shanklin stated he owns the property three lots to the west and he could not get any help getting this down. He stated the City Manager ignored him.

Mitchell questioned when the utilities were turned off.

Griffith stated they were turned off on the 24th of February. He stated they consider a property non-habitable and vacant if it does not have a water supply.

Mitchell stated those services were disconnected February 24th.

Shanklin stated it should not have taken over three years.

Mitchell stated the City Council' s policy is that if it is occupied, it will not be declared dilapidated.

Shanklin stated that is not Council policy.

Mitchell stated it is, they have never kicked anybody out of a house. If it is occupied and they have an active utility bill, they have not declared the structure dilapidated.

Shanklin stated he is not sure that the water was turned off.

Griffith stated the guidance his office has received is that whenever they look at a structure, they insure that the structure is vacant.

Shanklin stated the only reason why is because Bob Shanklin owned the property three lots over.

Mitchell stated that is not the truth. You had an active utility account and the policy is that we will not declare a structure dilapidated with active utilities.

Shanklin stated that Mitchell would not go investigate when he said that no one was living there and the utility and construction poles are still there as they were three or four years ago.

Mitchell stated he was talking about a city account.

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

MOVED by Shanklin, SECOND by Haywood, to adopt **Resolution 09-42** declaring the structure at 905 SW 12th Street as a dilapidated public nuisance. AYE: Shoemate, Hanna, Burk, Shanklin, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

1207 SW New York Avenue

Griffith presented photographs of the property.

Haywood stated that the City Council passed this resolution the year before.

Griffith stated this structure was declared dilapidated on May 27, 2008, but because of an error in the legal description it has been brought back before the City Council to start the process again.

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

MOVED by Haywood, SECOND by Zarle, to adopt **Resolution 09-43** declaring the structure at 1207 SW New York Avenue as a dilapidated public nuisance. AYE: Hanna, Burk, Shanklin, Zarle, Haywood, Wells, Shoemate. NAY: None. MOTION CARRIED.

24. Hold a public hearing and consider an ordinance closing 5 feet of the utility easement on Lot 54 and 10 feet of the utility easement on Lot 55, Block 4, Blys' Pointe Addition, Part 3, also known as 316 and 318 SW Boatsman Avenue. Exhibits: Ordinance No. 09-___, Location Map, Application and Surveys.

Richard Rogalski, Planning Director, stated an application for Closing of Public Way or Easement has been submitted by Dan Young, the owner of Lots 54 and 55, Block 4, Blys' Pointe Addition, Part 3. The houses on these two lots were constructed into the utility easement along the rear of the lots. The request is to close the north 5 feet of the 25-foot utility easement on Lot 54 and the North 10 feet of the 25-foot utility easement on Lot 55. The record plat for Blys' Pointe Addition, Part 3, shows a 25-foot utility easement and a 10-foot drainage easement at the rear of Lots 52 through 55. The plot plan submitted for the building permit for Lot 54 shows the 25-foot utility easement with the 10-foot drainage easement overlapping the utility easement. The plot plan submitted for the building permit for Lot 55 shows a 15-foot utility easement and a 10-foot drainage easement for a total width of 25 feet. Due to the fact the easements were not shown correctly on the plot plans, building permits were issued and the houses were constructed encroaching into the utility easement. The property owner, Dan Young, wants to sell the properties and needs to have clear title. The private utility companies have been informed of the request and have no objections. The Sewer Division performed a field check and noted one of the houses is only 7 feet 9 inches from the sewer main in this easement; therefore, the Public Works Department recommends that only the portion of the easement where the houses are located be closed. On March 10, 2009, the City Council set a public hearing date of April 14, 2009 to hold a public hearing on this request. Notice of public hearing was mailed on March 13, 2009 to 35 property owners within 300 feet of the request, and proper notice was published in *The Lawton Constitution* on March 29, 2009. No calls or letters either for or against the request have been received.

Hanna questioned what it would hurt to give them the 10 feet.

Rogalski stated staff is recommending the width requested, but Public Works is recommending that they close the area they need, which is consistent with what the City Council has done in the past.

Hanna questioned if this was a mistake done by city staff.

Rogalski stated no. He stated when the builder put together the building permit application, he thought the 25 feet went from the property line. He thought there was 10 feet less easement and he showed it that way on his application, so the building permit was issued based on incorrect information. He stated staff is supporting closing the easement under the building.

PUBLIC HEARING OPENED.

Chuck Wade, attorney for Dan Young, stated there will be a problem with anything that has improvements on it from a title standpoint. He stated they are requesting the City Council vacate the north five feet of lot 54 and the north ten feet of lot 55.

Shanklin questioned why they would not want to give them all they are requesting.

Jensen stated there is an issue as far as public works crews being able to work in that small of an area.

Jerry Ihler, Public Works Director, stated they usually ask for a 25 foot utility easement when they look at a plat to work on a sewer line, depending on the depth. They need the maximum amount to be able to work. If they get in and have to utilize other property, they have to pay for it. He stated 7 ½ feet is not enough.

Mayor Purcell clarified that Mr. Wade wants the full ten feet and Ihler wants the area under the patio and house granted.

Mr. Wade stated this would not vacate the easement as to the portion of the sidewalk and the patio. This would create a title problem. He questioned if the City Council would consider vacating the easement under which improvements are constructed and this would satisfy the title problem.

Jensen questioned if they could solve this problem with a revocable permit.

Mr. Wade stated no, because a revocable permit would not solve the title problem as far as not being able to convey marketable title to the entire structure as built. He proposed a compromise, vacate the entire area of the easement upon which improvements are constructed.

Wells questioned if pictures are filed with the easement so they know what was there when it was approved.

Ihler stated they do not take pictures, it would refer to the legal description and that portion of the easement would be vacated.

Rogalski stated the mortgage inspection certificate is the survey. You can take the numbers and determine what you need to wrap around this patio. He stated if the City Council agreed to the compromise, they can use the survey to determine the amount that needs to be vacated.

Wells questioned how they will know twenty years from now that the only thing here was the patio and sidewalk.

Rogalski stated to construct any additional improvements, the applicant would have to come in and get a revocable permit.

Mr. Wade stated the only thing in the easement is about six feet of the patio.

PUBLIC HEARING CLOSED.

MOVED by Wells, SECOND by Hanna, to adopt **Ordinance 09-13** closing the easement as indicated by the survey for all of the buildings and current improvements on the two lots, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Burk, Shanklin, Zarle, Haywood, Wells, Shoemate, Hanna. NAY: None. MOTION CARRIED

(Title read by City Attorney) Ordinance 09-13

An ordinance closing a portion of a utility easement located on property in Blys' Pointe Addition addressed as 316 and 318 SW Boatsman Avenue, more particularly described in Section One hereof.

25. Discuss and take appropriate action as necessary concerning amending the process for an appeal of an order of the municipal judge to revoke or suspend a retail dealer’ s low point beer license under Section 4-2-1-213, Division 4-2-1, Article 4-2, Chapter 4, Lawton City Code, 2005. Exhibits: None.

Shanklin stated this issue came before the Council several weeks ago and they voted to not revoke the appellant’ s license. He stated they didn’ t like what they did, so he placed this item on the agenda. He does not want this to come in front of him. He stated they should not be doing this, they are a not a court of record. He would like to take this out of the city code and have the appeal go straight to district court.

Shoemate stated he also feels this should have gone to district court. He spoke with all of the owners of the convenience stores and they all have policy and procedures books to follow.

Mayor Purcell stated if they want to change this process they need to give guidance to the staff to bring back an ordinance to change the code. He stated there is a person in the audience that would like to speak on this subject.

Paul Korhonan, EZ Go Foods, stated that no retailers in this town want to see alcohol being sold to minors. He stated appealing to the City Council is just one more avenue they have to take to inform the Council on what steps they are taking. He stated they train their team members on how not to sell alcohol and tobacco to minors. They do have a policy on alcohol sales that states they ID everybody who appears to be under the age of 40 years old. They also have their employees sign a liquor liability agreement which states if they violate any of the steps in their training, their employment will be terminated. They also have a program where they send people out to their stores and attempt to buy tobacco and alcohol. Even a violation of this program will cause them to be terminated. He stated the Lawton Police Department does a wonderful job with the “Too Much To Lose” program. He encouraged the City Council to allow them this avenue to appeal to the Council.

Wells stated due to the open meeting laws, the City Council does not have the ability to discuss the issue like they would in a court of law. He really believes the appeal belongs in court and not before the City Council.

Mayor Purcell stated they have three options. They do nothing, the appeal goes to district court, or they do this administratively, which means the appeal would go to an administrative judge who would rule and then that appeal would go to the City Council.

Hanna stated they could change the laws to penalize the seller, such as a stiff fine and time in prison.

Jensen stated the maximum penalty is going to be $800 for a low point beer offense and up to 60 days in jail.

Hanna suggested they change the wording on the city license to say low point beer. Now it just says off premise.

Mayor Purcell stated they can change that administratively.

Burk stated that if they had done the right thing this would not even be an issue. He stated most people believe that there has to be a penalty and there has to be a process before you automatically go to district court. This takes away the powers of the City Council if they do not give themselves the opportunity to see some of these appeals. These are their ordinances.

Shoemate stated he has been told that we cannot fine someone more than what the state charges.

Jensen stated we have the right to impose up to $800 and sixty days in jail if they violate our criminal ordinance related to this license. We have the right to issue our own license for low point beer. Because we have a right to issue a license, we have the right to regulate and suspend or revoke that license.

Shoemate questioned if we fined the seller as well as the buyer.

Jensen stated we do not have the legal authority to impose a criminal fine on an owner of a business if we can' t prove criminal intent on their part. We do fine the seller.

Shanklin stated no matter what we do, they can always go to district court.

Wells stated they have no business being in this process. If they ever uphold the decision of the judge, the business owner will immediately go to district court. The only time it is not going to go to district court is when they do not overturn the judge' s decision. They do not belong in the business of trying to determine whether a judge made a correct decision or not. He would like to request that the City Attorney bring back an ordinance removing the City Council from the appeal process and make the next step go to district court.

Mayor Purcell clarified that if there is an appeal from the Municipal Judge' s decision, it would go to district court and bypass the City Council. They just need a consensus from the Council.

The members of the City Council, excluding Burk, agreed with Councilmember Wells recommendation.

Shanklin questioned what the City Attorney would recommend.

Jensen stated he would like to see this go from court to court.

Mayor Purcell stated that is the guidance that has just been given.

26. Consider an ordinance amending Sections 15-4-401, 402, 403, 404, and 407, Article 15-4, Chapter 15, Lawton City Code, 2005, pertaining to Nuisances and Health by incorporating into city code the same provisions currently in state law that prohibit the use of lighted tobacco in certain public places, providing for severability, and declaring an emergency. Exhibits: Ordinance 2009-_______.

Mayor Purcell stated the City Council was invited to a breakfast about two months ago hosted by Students Working Against Tobacco (SWAT). He stated there were some very articulate students talking about tobacco problems with young people. The students requested that the City Council adopt an ordinance that has been adopted by many other cities across the country. He stated the students gave him the information for the ordinance and he passed it along to the City Attorney.

Rebecca Pollard, Senior at McArthur High School and the Vice President of SWAT, stated their mission is to unite and empower youth to resist and expose big tobacco' s lies while changing current attitudes about tobacco. They are not against tobacco users, but against the industry because they are targeting our youth with products and marketing. They work to pass ordinances to reduce the amount of tobacco use. This ordinance mirrors the smoking in public places and work places state law. She stated approximately 700 deaths in Oklahoma each year are attributed to second hand smoke exposure. This ordinance will protect community members from second hand smoke and show that city leaders care about the health and well being of our community.

Josh Dodson, Thomason Middle School, SWAT middle school team, stated they need to create this local ordinance to show that Lawton cares about the health of our community. With this ordinance the community would be role modeling healthy behaviors for our youth. He stated smoking is used and advertised everywhere and he believes that the less he sees it, the less he will be tempted to try it. With this local ordinance a citation can be issued by local law enforcement and the money from that fine and court costs can stay in the community.

MOVED by Hanna, SECOND by Shoemate, to adopt **Ordinance 09-14**, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Burk, Shanklin, Zarle, Haywood, Wells, Shoemate, Hanna. NAY: None. MOTION CARRIED

(Title read by City Attorney) Ordinance 09-14

An ordinance pertaining to nuisances and health amending Section 15-4-401, 402, 403, 404, and 407, Article 15-4, Chapter 15, Lawton City Code, 2005, by incorporating into city code the same provisions currently in state law that prohibit the use of lighted tobacco in certain public places, providing for severability, and declaring an emergency.

Mayor Purcell encouraged students to come to the City Council and let them know what they want done.

The Mayor and Council recessed at 8:33 p.m. and reconvened in regular, open session at 8:41 p.m. Roll call reflected all members present.

27. Consider an ordinance amending Section 15-5-503, Article 15-5, Chapter 15, Lawton City Code, 2009, pertaining to nuisances and health by adding provisions for allowing vehicles to partially park on yards abutting roadways under certain conditions, providing for severability, and declaring an emergency. Exhibits: Ordinance 2009-_______.

Hanna stated on several streets in his ward there is no curbing. One of his constituents, who is also a police office, was cited for having guests park on his yard because there is not place to park on the street. He worked with engineering and the City Attorney and came up with an ordinance that states that if a street is 26 feet or less in width and has no curbing, a person can park two wheels of a vehicle on the grass and the other two on the pavement. This is for street with no curbing. He has about fourteen blocks in his ward that have no curbing and there is no place to park.

<u>MOVED by Hanna, SECOND by Shoemate</u>, to adopt **Ordinance 09-15**, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Hanna, Burk, Shanklin, Zarle, Haywood, Wells, Shoemate. NAY: None. MOTION CARRIED

(Title read by City Attorney) Ordinance 09-15

An ordinance amending Section 15-5-503, Article 15-5, Chapter 15 Lawton City Code, 2005, pertaining to nuisances and health, by adding provisions for allowing vehicles to partially park on yards abutting roadways under certain conditions, providing for severability and declaring an emergency.

28. Consider an ordinance amending Sections 4-1-1-114, Division 4-1-1, Article 4-1, Chapter 4, Lawton City Code, 2005, by clarifying that restaurants or other businesses that derive more that 50% of their sales from sources other than alcohol are not mixed beverage establishments. Exhibits: Ordinance No. 09-____.

Jensen stated this amendment to the city code make us conform to state law and the position taken by state authorities on the fact that a legitimate restaurant which derives more than half of their sales from sources other than alcohol is not a mixed beverage establishment and therefore can be within 300 feet of a church or a school.

Hanna questioned who was going to make this decision on if their sales are more than 50%.

Jensen stated we are going to enforce it the same way the state does. If we suspect they are getting more than 50% of their sales from alcohol we have the right to check their sales receipts and see if they are in compliance.

Mayor Purcell stated that this would only apply to those establishments that are within 300 feet of a church or a school.

Jensen stated we are trying to take the same position as state law regarding mixed beverage establishments being within 300 feet of a church or school. He stated this issue came up last year with the Sante Fe Steak House and planning staff said that our code does not read this way and he just wants to fix it.

<u>MOVED by Wells, SECOND by Hanna</u>, to adopt **Ordinance 09-16**, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Burk, Shanklin, Zarle, Haywood, Wells, Shoemate, Hanna. NAY: None. MOTION CARRIED

(Title read by City Attorney) Ordinance 09-16

An ordinance pertaining to alcoholic beverages amending Section 4-1-1-114, Division 4-1-1, Article 4-1, Chapter 4, Lawton City Code, 2005, by clarifying restaurants or other businesses that derive more than 50% of their sales from sources other than alcohol are not mixed beverage establishments, providing for severability and declaring an emergency.

29. Discuss extending contract with Giuseppe' s Landscaping & Lawn Care of Lawton, OK to complete tree pruning at Elmer Thomas Park and take appropriate action if necessary. Exhibits: Invitation to Bid and Contract with Giuseppe' s Landscaping & Lawn Care**.**

Shanklin stated he hoped everyone had an opportunity to go look at the trees in Elmer Thomas Park that have been ignored for forty years. He is concerned that they did not take care of enough of the trees. He would like to give staff the authority to contact Guiseppe' s Landscaping and extend their contract.

Hanna stated that the McMahon Foundation has done a lot for this city and we need to take care of their property. This landscaping service did a fantastic job trimming the trees and it takes a load off the parks staff.

Jensen stated we already have a one year contract in place and all we need to do is to authorize additional funding for additional work.

Mayor Purcell stated they need to determine how much money and where it will come from.

Kim Shahan, Parks and Recreation Director, stated there are about 100 trees to go, and there will be a little more cost because of some specialty trees. There are about five trees that have to be removed. The estimated amount would be $15,000 - $16,000.

Hanna stated they originally authorized $25,000 for this project from hotel/motel tax and he has only used $9,000 so he would suggest using the remaining balance.

Mayor Purcell stated the balance went to the beautification project on 11th Street. But this does not mean they cannot authorize additional money.

MOVED by Shanklin, SECOND by Hanna, to authorize an additional $16,000 out of hotel/motel funds for additional tree trimming at Elmer Thomas Park. AYE: Burk, Shanklin, Zarle, Haywood, Wells, Shoemate, Hanna. NAY: None. MOTION CARRIED

30. Discuss the authority of the Mayor, City Council and City Manager as established by the Lawton City Charter. Exhibits: Article C-2 and Article C-3, Lawton City Charter.

Shanklin stated since there are two new councilmembers, he felt they needed to let the public know just exactly what their authority is from the city charter as to the City Council, City Manager and the Mayor.

Jensen read the duties from the City Charter as follows:

"Except as otherwise provided in this Charter, all powers of the city, including the determination of all matters of policy, are vested in the council as indicated herein. The city manager shall be chief administrative officer and head of the administrative branch of the city government. He shall execute the laws and ordinances and administer the government of the city, and shall be responsible therefore to the council. The mayor shall preside at meetings of the council, and shall prepare and propose agenda for council meetings. He shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of military law. He shall have no administrative duties except that he shall sign such written obligations of the city as the council may require. He shall have the right to vote on questions before the council only in case of a tie and on motions to appoint or to suspend or to remove the city manager. The mayor shall present annually a public address on the state of the city at a time and place of his designation, and shall deliver, from time to time, such other messages to the council and citizens of the city as he deems appropriate."

Shanklin stated he just wanted the people out there to know that the City Council does have the authority to remove and that he personally doesn' t want any diatribes aimed at him for whatever reason. He intends to be as nice as possible but there are others that want to put him down. He is just saying that the City Council has the authority to run this city, it' s not the Mayor, and it' s not the City Manager. Let' s keep that in mind.

Hanna stated the charter also says that the City Council hires the City Clerk, City Attorney, City Manager and the Municipal Judge. That is their duties, if they make the mistake, they make the mistake. The City Council also has the authority to disband any department within the City, all it takes is five votes.

Jensen stated this is only for departments created by the city charter.

Hanna stated sometimes these things get complicated, but people need to understand where everything lies.

Shanklin stated he would like to see in the paper a very brief outline of the powers of these three bodies and maybe that will satiate some of the citizens that he comes in contact with.

Mayor stated that the city charter states that the Mayor shall deliver from time to time such other messages to the council and the citizens of this city as he deems appropriate. He absolutely adheres to what the city charter says and that is the reason he ran for Mayor. He does not step across that line. He wants everyone to understand that he will meet with any group of citizens who want to meet and he is not concerned with those who think he is having secret meetings. He stated he has been very lenient on parliamentary procedure and if they read Council Policy 1-6, it specifically says that the presiding officer shall be the Mayor and it also says in that policy, as well as Roberts Rules of Order, that no member shall speak without recognition from the presiding officer. He wants everyone to know that he will continue to meet with citizens and will continue to speak out.

31. Receive an update on the 2nd Street Enhancement Project and the Tax Increment Financing (TIF) District. Exhibits: None.

Shanklin stated he has heard from an individual who has property at 2nd and Gore. He stated he had a letter that listed how they will arrive at the value of his property.

Mitchell stated that Councilmember Shanklin is talking about Mitch Ayres, who approached the Lawton Economic Development Authority about selling his property. He stated the property was appraised and an offer was made to Mr. Ayres who rejected the offer. Mr. Ayres made a counter offer which was far above what the property was appraised for and that was the end of the discussion.

Shanklin stated that people up and down 2nd Street preach a different version. He is very interested in the fact that if one property sells for X dollars and another one exactly like it sells for half of an X, there is something wrong.

Mitchell stated Mr. Ayres has every right to go out and get a second appraisal and present that report to the Authority for consideration.

Shanklin questioned why is it we are doing a 2nd Street project when we don' t even have a developer.

Fred Fitch, Chairman of the Lawton Economic Development Authority, stated Mr. Ayres property is not even in the first phases of the downtown redevelopment project. He came with a price in mind and an appraisal was done, an offer was made and Mr. Ayres rejected that offer. He was told he needed to go get his own appraisal so they could compare the two. They have never heard anything from Mr. Ayres. With regards to the developer, they are working with Leslie Bachelor, an attorney from Oklahoma City, who is finalizing the development draft that will be going back to Steve Scott with Ruhl and Ruhl.

Shanklin questioned if there were plans to go west on 2nd Street.

Mr. Fitch stated that was always the intention to go west on 2nd Street.

Shanklin stated he heard they were going to abandon the east side and go to the west side.

Mr. Fitch stated that is not true. The intention is to continue from 2nd to Railroad and Gore to Ferris in the first phases of this downtown redevelopment. The continuation of this development project will go west of 2nd Street from Ferris down to Arlington.

Shanklin stated he understands we used $900,000 CIP money to get the right amount together.

Mitchell stated no, that was for the 2nd Street improvement project, not the TIF acquisition.

Shanklin questioned if those funds were identified in the vote or could they use them wherever they wanted.

Mitchell stated the City Council voted to allocate those monies out of the CIP to fund that project.

Hanna questioned if we had any letters of intent from businesses who want to go on 2nd Street. He would like to see some progress.

Mr. Fitch stated the property will be sold to the developer who will either own and lease to the tenants or the tenants will own their own buildings. The increased value in ad valorem and sales tax will come back at the rate of 90% over the increase to the TIF district.

Hanna questioned when they should start seeing some progress.

Mr. Fitch stated the economy has put them in a tremendous situation and the credit market is not available. They feel that they have a proposal put together that is going to get some activity going pretty quick. Currently, major chain stores are not signing leases or building in a developer' s project.

Shanklin questioned if Ruhl and Ruhl will give us money.

Mr. Fitch stated yes, they will acquire the land.

Wells stated that payment will hopefully be enough to pay back the current loans.

Mr. Fitch stated yes and hopefully acquire more property. The sooner they can get it going the sooner the ad valorem and sales tax kicks in.

Shanklin stated he is not necessarily against it, but it blows his mind that we would do a 2nd Street project when the developer may not even want that.

Mr. Fitch stated the matching funds were available at that time for that project and we had no control over that. Do we take advantage of this and utilize those matching funds or do we let them go and pay 100% out of our own pockets later on. He stated that we will be ready to go when the economy turns around and people want to start building and developing.

Wells questioned if there was any way to pass an ordinance to change the CPI.

Mitchell stated the purpose of the TIF district is to generate new revenues and use those dollars to make other investments and to expand what you are already trying to do. Historically during the first three, four or five years of a TIF the revenues are very flat because you are trying to get developers interested in making improvements and once you do this, your revenue starts picking up. It took Oklahoma City almost eight years to get their first TIF district off the ground.

32. Discuss budget for fiscal year 2009-2010 and take appropriate action if necessary. Exhibits: None.

Wells stated the national and state economy is in recession and it appears Lawton is starting to get hit. He stated they took a budget from July 1, 2007 which was $62.8 million in expenditures and this current year they have a budget of $80 million which is about a 29% increase in the budget over two years. Utility rates have gone up 33% in one year. The people in his ward are hurting due to the amount of these increases. He stated if the predictions are correct on the meter replacement program, there may be an additional $5 - $10 on their water bill just because the meters are supposed to read more accurately. He stated they are getting close to a $100 utility bill. He feels that the City Council has a responsibility to come up with a responsible budget. He would suggest they put a limit on the budget and try to keep it around $80 million. He would also suggest that if they are required by ODEQ to fill positions at the wastewater treatment plant, they reduce some positions that have been added in previous years. He feels they should do a better job with managing tax payer money. He would like to put a cap on the budget somewhere around $80 million and ask the City Manager to implement a 90 day rolling hiring freeze, which will continue to roll along and build up some reserve. He suggested if the City Council has anything they want to include they should tell the City Manager and let him incorporate it into the budget. He stated the budget sessions have become dog and pony shows, they don' t accomplish a lot. He feels if they want to talk to a department they could schedule a meeting, but not go through all of the budget sessions like they have done in the past.

Zarle stated he agrees with Mr. Wells and he would like to see us establish a rainy day fund in case we need something. He is very proud to go somewhere and tell people that we are not in the 85% of the cities in the United States that are having financial problems. He feels the City of Lawton overall has been run very well. He wants to be conservative. A lot of people have more faith in BRAC and he feels we are going to get cut way back. They need to be prepared in case this happens.

Mitchell distributed a handout that tracked personnel over the last ten years. They could only find a new gain of 49 positions over the past ten years and only one was outside of public works, police or fire.

Wells stated at the five year point it was 786 versus 861 now. That is 75 people since 2004. The citizens want service, but they have a responsibility to try and fund this service.

Mitchell stated if they want to cut positions, but carve out police, fire and public works, they haven' t added anyone but in those departments.

Wells stated since 2004, there have been two in human resources and one in municipal court, two in revenue services, one GIS systems, four in planning, four in stormwater mitigation, three in neighborhood services.

Mitchell stated stormwater mitigation was a state funded and state mandated program.

Wells stated just in those years he was talking about there were fourteen or fifteen positions that were not police, fire or public works.

Mitchell stated if you go back there were also a lot of reorganizations in neighborhood services, license and permits and other departments.

Zarle questioned how many they added for sewer rehab.

Mitchell stated that was seven or eight years ago.

Ihler stated it has been about 37 to date.

Mayor Purcell questioned how many they added for emergency communications that they picked up from the county.

Mitchell stated 10 or 11.

Mayor Purcell stated you have to look at those departments who have reorganized.

Zarle stated he does not want to cut any current jobs. If they have to cut back they need to do it through attrition. He is not a hatchet man.

Wells stated he has been told that they do not have to fill all 10 positions at the wastewater treatment plant, they could fill just a few. He suggested that the City Manager come to the City Council with a budget somewhere around $80 million and give them cuts that they could possibly live with. It is not their job to sit here and decide what will be cut, that is what they pay the City Manager for.

Mayor Purcell stated that under the City Charter, the City Manager is charged to give the City Council a balanced budget. The City Council does not have to accept it and when they go through the process, the City Council adds and subtracts. In order for him to get to $80 million, they need to give him some guidance tonight on where to cut services. The $80 million in this years' budget does not include the fire contracts or contracts for police and AFSCME. They also have step increases that are part of the contracts. There is going to be an increase even if it is a "do nothing" budget. He can make some cuts, but half the council will disagree with those cuts, so they will still have to go through that process of discussing each department as they have always done. It is not a dog and pony show, it is where the council says they want to cut and they need to give him the guidance now.

Shanklin stated they haven' t been very prudent on some of their projects.

Wells stated if the City Council gives the City Manager a budget amount, the City Manager can come back and tell them where he would cut and the City Council can decide to accept the recommendation or not. The other choice is that the City Manager can ignore the City Council recommendation and come back with a budget he wants.

Burk stated when he came on the City Council a year ago he thought the same way. He had to change his way of thinking when doing this type of budget. His issue is that they will end up cutting things. He knows that Councilmembers Wells and Zarle are upset about the increase in the water bill, but that was because there were so many councils before that would not bite the bullet. You cannot keep going for years and not raise revenue. There are only two sources of revenue they have, either sales tax or water rates. Not one member liked raising those rates last year, but you can' t keep spending without paying for it.

Zarle stated you must work a lot smarter when the prices start going up.

Burk stated he does not feel they would be doing the right thing if they didn' t talk with the department directors.

Zarle stated he would like to see the department directors come up and tell them what they could do to cut costs.

Burk stated they did everything they could to try and find places to cut and figure out why they were spending so much. He stated they are not going to get to that number without cutting services.

Wells stated that he said around $80 million. Last year the City Council added $400,000 for a second order of the trash containers. If they only order one batch this year, that is $400,000 they have made up. He stated fuel costs are going to be cheaper. He stated that maybe those two things have made up the costs for the step increases and pay raises. He stated they hope to have some increase in sales tax and water revenues. He stated they give a number and the City Manage can either meet that number or submit a budget that he feels is necessary. At some point they need to bite the bullet.

Burk stated if you take off all of the other fees and charges on the water bill, they are at where they should be with other states.

Wells stated when he first started working for the City, the Waurika payment was paid out of the general operating budget. Ten or fifteen years later they added that $4 charge on the utility bill. He is an average customer and his bill this month was $83. If the estimate of 20% is correct on the new meters, this will add another $5 or $10 to his bill. If he uses any extra water his bill will be $100.

Burk stated they are not asking for someone to pay for something they did not use.

Hanna stated the City Manager should know the needs of the departments. If the City Council wants to put some money into a special project they need to tell the City Manager where they want that money spent prior to starting the budget. The City Manager should bring a budget to the City

Council and they can either accept it or deny it. If cuts have to be made, it should be up to the City Manager to look at all of the departments and determine where to cut.

Mitchell stated he would need some direction on what services to reduce.

Hanna stated that the City Manager should make the decision on where to take it from and then they can all talk it over. He stated he does not feel it is necessary to sit here twice a week for a full month and listen to each department.

Mitchell stated last year they presented a status quo budget and with increases in chemicals and fuels they had to do a lot of things just to stay even. He stated according to the charter, the City Council is charged with setting appropriations, raising revenues and adopting the budget.

Hanna stated the charter also says that the City Manager is responsible for bringing to the City Council a balanced budget for approval or disapproval.

Mitchell stated it says that the City Manager will bring a proposed budget and that is what he does every year.

Hanna stated there is no reason for everyone to sit here three or four nights a week listening to the department directors when the City Manager already knows what the department wants.

Endicott stated they meet for weeks with department directors once they submit their budget. Right now on his desk are requests for $8 million worth of capital outlay. They have already $6 million of this out. He stated it is very difficult to just give a number. They need to get some direction on what programs need priority. The budget is brought to the City Council in a balanced fashion.

Wells questioned if they were going to raise rates again this year or are they going to bite the bullet and say give us a budget around this much and let’ s see what that means to us. He questioned if the City Manager had a rough estimate.

Mitchell stated they have gone through all of the department reviews and those requests have been shaved. He stated just the labor costs are approximately $50 million. He stated there is a fire contract in place, they are negotiating a police contract and they have just started meeting with AFSCME. To reduce personnel costs they either lay off positions or they don’ t approve contracts. He stated they are looking at least between $82-$83 million.

Wells stated they have $400,000 in trash cans you can knock off, $500,000 savings in fuel, they will have some water rate and sales tax increase and this should get the budget back to around $80 million.

Mitchell stated they are just not there yet.

Wells stated that everyone is cutting programs and at some point they have to say that they have raised it as much as they can.

Mayor Purcell stated the preliminary budget will be handed out at the next meeting and if it comes in too high they need to tell him where to cut. To pick a number now at this late date does not get them anywhere, you can’ t get there from here.

Wells stated it is not the job of the City Council. The end result is their job. It is the City Managers job to give them a budget that falls within their guidelines.

Mayor Purcell stated the City Manager has to be able to meet those guidelines. The guidelines that says bring a budget in for $80 million and don’ t cut three departments is impossible. He has never heard that type of budget guidance.

Wells stated that is what he has recommended and it is whatever the City Council wants to do.

Mayor Purcell stated that staff is working on the budget and they will bring it to the City Council in the next two weeks and if the budget does not meet the City Council approval they will tell him where they want him to cut.

Mitchell stated he will make every effort to bring in the budget as low as he can make it. They do not want to raise utility rates just for the sake of raising utility rates to fund new programs, that is not their intent.

Wells stated there is no way he will vote for a rate increase this year.

33. Discuss billboard at 2010 SW Lee Boulevard and take appropriate action if necessary. Exhibits: None.

Shoemate stated at one time Lee Boulevard was a state highway that was built by state funding when they widened it. It clearly states in the code that you cannot have a sign within so many feet of a state highway. The code also says you cannot have a sign within 25 feet of another sign. There is another part of the code that says the sign cannot be 25 inches over the roof of the building. This sign violates all three of these parts of the code and that bothers him.

Mayor Purcell stated when the sign ordinance was passed in 2005, a lot of signs were grandfathered in because we could not get rid of all of them.

Shoemate stated that it also says that there has to be a minimum of 900 feet between signs.

Jensen stated the code also says that you can' t be within 25 feet of the right of way line, but in his opinion, all of this is grandfathered in. If they start picking on this sign because they don' t like the contents of the sign, which they are pre-empted under state law from regulating, they are asking for trouble.

Mayor Purcell stated everyone should have gotten a copy of the legal opinion.

Shanklin stated it is morally wrong to put a sign up in front of your business and berate you.

Jensen stated they do not have any legal authority, at the local level, to regulate the content of a sign that is advertising the sale of guns. The State of Oklahoma has to do this. He stated they are going to invite a constitutional claim saying that they are trying to regulate commercial speech because they don' t like the content and they cannot do this.

Ralph Graeber, owner of the sign at 2010 Lee, stated his neighbor next door had the chance to rent that sign, but he was not willing to pay. He just let someone else rent the sign and it just gives the location to another place. He is here tonight only because one person complained.

Shanklin questioned if Mr. Graeber would have rented that sign if he would have known the content.

Mr. Graeber stated yes he would have.

Shanklin stated that is good enough for him.

Shoemate stated he is okay with everything.

34. Consider approving a lease agreement with Duit Construction Company, Inc. for City property located along the NW 67th Street Reconstruction (Cache to Rogers Lane) Project

#2003-7 and along Rogers Lane for a temporary concrete batch plant/construction site. Exhibits: Location map.

Ihler stated Duit Construction received the bid to reconstruct 67th Street. The contractor wanted to utilize the site at 67th Street and Rogers Lane as a construction site as well as a batch plant. Back in February, staff recommended $1,500 a month as the fee, but the contractor was willing to pay $1,000 a month. The contractor told them that he wanted to look for another option that was less costly. They found another location a little further east and they entered into a lease. They set up a construction site in front of that property which was actually City of Lawton property. At the last Council meeting he polled the City Council and the 67th location was the preferred site. They went back to the contractor who was interested in that site. The bottom line is that staff is recommending

$1,000 a month because of the safety issue and the fact the contractor is paying on another lease and the contractor is willing to pay only $250 a month for the site at 67^{th}. Staff is also recommending that the contractor be able to utilize the site where they have already set up. The City Council needs to decide if the contractor will pay $1,000 a month or the $250 a month they are willing to pay.

Shanklin stated that Duit Construction did a great job on Flower Mound Road and he does not understand why we would want to alienate that relationship. He would give them that spot and let them go to work.

Ihler stated that the City Council has the final decision on how much they pay and the location. He stated they are not trying to alienate Duit Construction. Staff was making a recommendation based on what other contractors have been paying for other sites. He stated staff will make it work.

MOVED by Burk, SECOND by Zarle, to approve a lease agreement with Duit Construction Company, Inc. for City property located along the NW 67^{th} Street Reconstruction (Cache to Rogers Lane) Project #2003-7 and along Rogers Lane for a temporary concrete batch plant/construction site at a cost of $250 a month.

SUBSTITUTE MOTION by Shanklin, to approve the lease with no charge for the site. SUBSTITUTE MOTION FAILED DUE TO THE LACK OF A SECOND.

VOTE ON ORIGINAL MOTION: AYE: Zarle, Haywood, Wells, Shoemate, Burk, Shanklin. NAY: None. ABSTAIN: Hanna. MOTION CARRIED

35. Consider appointing a proxy for final decision authority to accept or reject bids from the public auction of a 1998 Caterpillar 623F scraper*, s/n* 6BK00530 and a 1994 Caterpillar 623F scraper, *s/n* 11N10983. Exhibits: Complete copy of Ordinance 08-49.

Ihler stated they have been trying to sell the two scrapers that they have at the landfill. They did receive one sealed bid which was a very small amount and they rejected that bids. The City Council authorized staff to move forward with a public surplus auction on line. The ordinance requires that they bring the bid back to the City Council for acceptance which takes 2-3 weeks and they feel this will hinder people from bidding on this equipment. He would like to ask the City Council to pick a proxy to work with the buyer and give direction during the on line auction.

Jensen stated the ordinance just says that the City Council has final approval. The City Council needs to delegate someone to have the authority to give that final approval on the spot.

Burk stated he will be the proxy.

MOVED by Shoemate, SECOND by Zarle, to appoint Councilmember Burk as the proxy to accept or reject bids from the public auction. AYE: Burk, Zarle, Haywood, Wells, Shoemate, Hanna. NAY: Shanklin. MOTION CARRIED

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Shoemate commented on how clean the landfill looked. He stated Trash Off will be held on Saturday. This is a good opportunity for civic clubs and community groups to clean up the entire town in one day.

Haywood thanked the Lawton Police Department for all their hard work on Saturday regarding the case of the little boy who was killed in Lawton View. He wanted to clarify that the citizens of Lawton View were not throwing trash cans at the police officers. The trash cans were already in the street. He invited everyone to the 10^{th} Annual Southside Youth Rally and Drug Free Fair on Saturday, April 25^{th} at Vernon Cook Park from 11:00 a.m. to 4:00 p.m.

Wells thanked staff for the action taken on the permit log. He questioned if they could put a time limit on permits.

Mitchell stated he believes the time limit is six months. A lot of them are tied up in engineering.

Mayor Purcell stated a lot of people have not signed up for Code Red. He stated Trash Off will be held in Elmer Thomas Park on Saturday from 9:00 a.m. to 3:00 p.m.

The Mayor and Council convened in executive session at 10:34 p.m. and reconvened in regular, open session at 10:49 p.m. Roll call reflected all members present.

BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

36. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a potential lawsuit from Mike Evans, regarding the city code requirement prohibiting a tattoo parlor within 1,000 feet of a church, school, or playground, and if necessary, take appropriate action in open session. Exhibits: Court order in Oklahoma District Court Case CJ-2007-988.

Jensen read the title of item 36.

MOVED by Burk, SECOND by Shanklin, to instruct the City Attorney to prepare an ordinance to bring to the City Council for consideration repealing the restriction prohibiting tattoo parlors within 1,000 feet of a church, school, or playground. AYE: Haywood, Wells, Shoemate, Hanna, Burk, Shanklin, Zarle. NAY: None. MOTION CARRIED

37. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the lawsuit Jamal Lipford vs. City of Lawton, et al., CIV-08-0490-HE, and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item 37. No action is needed.

38. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss negotiations for a Collective Bargaining Agreement for FY 2009-2010 between the Police Union, IUPA, Local 24, and the City of Lawton, and take appropriate action in open session. Exhibits: None.

Jensen read the title of item 38. No action is needed.

There being no further business to consider, the meeting adjourned at 10:51 p.m. upon motion, second and roll call vote.

/s/ John P. Purcell, Jr.
JOHN P. PURCELL, JR., MAYOR

ATTEST:

/s/ Traci L. Hushbeck
TRACI HUSHBECK, CITY CLERK