

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
MAY 10, 2011 – 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor Fred L. Fitch
Presiding

Also Present:
Larry Mitchell, City Manager
Frank V. Jensen, City Attorney
Donna Gibson, Deputy City Clerk
COL Ray Lacey, Fort Sill Liaison

Mayor Fitch called the meeting to order at 6:00 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Dr. Charles Whitlow, Union Baptist Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:

Bill Shoemate, Ward One
Michael Tennis, Ward Two
Rosemary Bellino-Hall, Ward Three
Jay Burk, Ward Four
Rex Givens, Ward Five
Richard Zarle, Ward Six
Stanley Haywood, Ward Seven
Doug Wells, Ward Eight

ABSENT:

None

PRESENTATION OF MAY 2011 CITIZEN OF MONTH TO PATSY SANDERS

Karen Woodward, Mayor's Commission on that Status of Women introduced Patsy Sanders as the citizen of the month for May, 2011.

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

PROCLAMATION FOR FLOOD AWARENESS MONTH

Mayor Fitch presented a proclamation to Jerry Ihler, Public Works Director, proclaiming May 2011 as Flood Awareness Month.

PROCLAMATION FOR NATIONAL PUBLIC WORKS WEEK

Mayor Fitch presented a proclamation to public works employees proclaiming May 15 -21, 2011 as National Public Works Week.

Mr. Ihler announced that on Saturday, May 14th they will have all different types of public works equipment on display in the NW parking lot of Central Mall from 1:00 p.m. to 4:00 p.m. They will also be providing tours of the wastewater treatment plant and the SE water treatment plant.

PRESENTATION FROM ARTS AND HUMANITIES DIVISION

Billie Whipp, Arts and Humanities Division, gave a brief overview of the Children's Art Studio program and the Student Performance program. Both programs are sponsored through the Arts and Humanities Division. She thanked the council for supporting the appropriation of funding for arts programs in the Lawton community.

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

Mayor Fitch requested item #3 be considered separately.

MOVED by Burk, SECOND by Shoemate to approve the consent agenda with the exception of item #3. AYE: Tennis, Bellino-Hall, Burk, Givens, Zarle, Haywood, Wells, Shoemate. NAY: None. MOTION CARRIED.

1. Consider adopting a resolution approving payment on the judgment in the Workers' Compensation case of Charles F. Miller in the Workers' Compensation Court, Case No. 2007-14256Y. Exhibits: **Resolution No. 11-24.**
2. Consider adopting a resolution approving the settlement by a joint petition and making payment in the workers' compensation claim of Robert C. Martin II. Exhibits: **Resolution No. 11-25.**
3. Consider amending the outside water agreement between the City of Lawton, Oklahoma, and McGuire & Wells Development, LLC, by increasing the maximum number of individual meters from 40 to 117 for this water association. Exhibits: First Amendment to Agreement for Sale of Treated Water (on file with the City Clerk).

Mayor Fitch stated this agreement is going to require some more work from staff. He suggested they table this item until the next meeting.

MOVED by Givens, SECOND by Shoemate to table to May 24, 2011. AYE: Bellino-Hall, Burk, Givens, Zarle, Haywood, Wells, Shoemate, Tennis. NAY: None. MOTION CARRIED.

4. Consider a resolution approving the execution and delivery by the Lawton Economic Development Authority of a 2009 Economic Development Capital Improvement Reformed Note in the amount of not to exceed \$12,000,000 in aggregate amount outstanding at any one time for the purpose of establishing a later maturity date of June 30, 2011; confirming approval of an Agreement of Support between the City and Authority, the Mortgage and Security Agreement between the Authority and Banks, a

Pledge Agreement between the Authority and LURA assigned to the bank relating to the proceeds of the sale of land acquired with the Note proceeds; and other matters relating thereto. Exhibits: **Resolution No. 11-26** and Revised Note.

5. Consider accepting a grant from the Oklahoma Department of Human Services for the Retired and Senior Volunteer Program (RSVP) for Fiscal Year 2011-2012 funding. Exhibits: Contract on File in City Clerk's Office.
6. Consider accepting a onetime additional funding grant from the Oklahoma Department of Human Services for the Retired and Senior Volunteer Program (RSVP) for Fiscal Year 2010-2011 funding year. Exhibits: Contract on File in City Clerk's Office.
7. Consider and take appropriate action for the recommendation of the City of Lawton Highland Cemetery to become a participating location for Wreaths Across America program honoring the veterans laid to rest at the Highland Cemetery. Exhibits: Wreaths Across America brochure.
8. Consider approving a credit adjustment in the amount of \$1,739.78 for two months' bills to Philip Brinck's service account #00022138 for the property located at 3801 ½ SE Lee Boulevard for an undetected, underground leak on the customer's service line. Exhibits: Statement from Gordon Plumbing.
9. Consider approving a credit adjustment in the amount of \$878.15 for two months' bills to Sarah Cortez's service account #00026399 for the property located at 2114 NW Lake Avenue for an undetected, underground leak on the customer's service line. Exhibits: Invoice from Ken's Plumbing.
10. Consider approving the Replat of Lots 21 through 29, Block 6, College Addition. Exhibits: Plat Map.
11. Consider acknowledging receipt of Tier I permits from the Oklahoma Department of Environmental Quality for the construction of 1,285 linear feet of 12-inch waterline, 1,348 linear feet of 10-inch waterline, 4,529 linear feet of 8-inch waterline, 341 linear feet of 12-inch sanitary sewer line, 906 linear feet of 10-inch sanitary sewer line, 6,910 linear feet of 8-inch sanitary sewer line, a duplex 94-gpm lift station with a standby generator, 1,405 linear feet of 4-inch forcemain and all appurtenances to serve Settler's Crossing located on the south side of SW Bishop Road, west of SW 52nd Street in the NE/4 of Section 9, T1N, R12W, Comanche County, Oklahoma. Exhibits: Permits to Construct on file in the City Clerk's Office.
12. Consider approving the construction plans for a left turn lane on NW Gore Boulevard for the proposed Dollar General Store to be located in the 6300 block of NW Gore Boulevard subject to conditions. Exhibits: Location Map.

13. Consider setting the date of June 14, 2011, to hold a public hearing and consider an ordinance closing the north 5 feet of the 20-foot alley in Block 4, McClung Addition. Exhibits: Application, Location Map, Council Policy 5-1.
14. Consider adopting a Resolution authorizing the installation of traffic control measures on: northbound NW 13th Street at the 5-legged intersection of NW Laird Avenue, NW Cherry Avenue and NW 13th St; northbound NW Greenmeadow Drive at the intersection of NW Mission Boulevard. Exhibits: **Resolution No. 11-27** and Traffic Commission Minutes and Traffic Issue Request.
15. Consider terminating the contract with MGR, Inc. for professional engineering services for the West Gore Blvd. (67th Street to 82nd Street) Project #2000-27. Exhibits: None.
16. Consider awarding a construction contract to Sherwood Construction Co., Inc. for the NW 38th Street Reconstruction (Gore to Cache) Project #2006-7. Exhibits: None.
17. Consider approving the First Amendment to the Agreement with Stearns, Conrad and Schmidt Consulting Engineers, Inc. d/b/a SCS Engineers for additional engineering services for the Landfill Gas Collection & Control System Project # 2011-2
Exhibits: A copy of the First Amendment to the Agreement is on file in the City Clerk's office.
18. Consider accepting an agreement with Dan Wigington for appraisal services, and authorize the Mayor and City Clerk to execute the agreement. Exhibits: Agreement is on file in the City Clerk's office.
19. Consider awarding a contract for (RFPCL11-017) Fully Equipped Heavy Rescue Fire Apparatus to VT Hackney Inc., of Washington, North Carolina, and authorize the execution of a contract. Exhibits: Department Recommendation, Proposal Price Sheet, Abstract of Bids. An Agreement will be on File in the City Clerks Office.
20. Consider extending (CL09-036) Items 1-9, 11-12, 14-15, 17-27 & 31-33 Library Book Contract to Baker & Taylor of Charlotte, NC. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.
21. Consider extending (CL09-036) Items 26, 31 & 33 Library Book Contract to Recorded Books, LLC of Prince Frederick, MD. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.
22. Consider extending (CL09-036) Items 3, 6, 15, 21, 23, 24, 31, 32 & 34 Library Book Contract to Infobase Publishing of New York, NY. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.
23. Consider extending (CL09-036) Items 1-3, 6-7, 11, 14-18, 22-26, 28 & 31-33 Library Book Contract to Davidson Titles, Inc of Jackson, TN. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.

24. Consider extending (CL09-036) Item 15 Library Book Contract to The H.W. Wilson Company of Bronx, NY. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.
25. Consider awarding (CL11-025) Aluminum Trench Shields to American Shoring, Inc of Newburgh, NY. Exhibits: Department Recommendation, Abstract, Price Sheet.
26. Consider awarding a contract for (CL11-022) All Wheel Drive Motor Grader to GW Van Keppel Company of Oklahoma City, OK. Exhibits: Department Recommendation, Abstract of Bids.
27. Consider awarding a contract for (RFPCL11-028) Financing for Motor Grader to City National Bank & Trust of Lawton, OK. Exhibits: Department Recommendation, Abstract of Bids. Page 98
28. Consider approving appointments to boards and commissions. Exhibits: None.
29. Consider approval of payroll for the period of April 18 – May 1, 2011.

NEW BUSINESS ITEMS:

30. Hold a public hearing and consider a resolution amending the 2030 Land Use Plan from Residential/Low Density to Public Facility and an ordinance changing the zoning from R-1 (Single-Family Dwelling District) to P-F (Public Facilities District) zoning classification located at 4831 SW Waterstone Place. Exhibits: Resolution No. 11-____, Ordinance No. 11-____, Site Plan, Location Map, Application and CPC Minutes.

Richard Rogalski, Planning Director, stated this request is for Lot 22, Block 1, Waterstone Development. A drive was constructed on this lot by the City of Lawton to serve the E911 and Emergency Operations Center. The drive is gated, and only personnel of the E911 and Emergency Operations Center have access to this entrance. Derrell Morgan, Emergency Communications, advised that the gated drive is used by personnel of the E911 and Emergency Operations Center during the hours that the GPTC locks the gates on Lee Boulevard, typically 11 p.m. to 6 a.m. Monday through Friday and on weekends. The property owner, Great Plains Technology Center, plans to deed the lot to the City of Lawton after the rezoning is approved and a lot line adjustment is approved to allow the sale of the east 12.5 feet of Lot 22 to the owner of Lot 21. The zoning of the surrounding area is P-F to the north and R-1 to the south, east, and west. The land use of the surrounding area is Great Plains Technology Center (GPTC) campus to the north and single-family residential to the south, east, and west. The 2030 Land Use Plan designates this lot as Residential/Low Density. The lot is part of Waterstone Development, which was platted in 2007. The GPTC campus is immediately north of this subdivision. The purpose of the drive is to provide a safe access to employees of the E911 and Emergency Operations Center. The GPTC gates the drives on Lee Boulevard after classes and on weekends. Employees working at night and on weekends would have to get out of their vehicles, unlock the gate, drive through the gate, lock the gate, and then drive to the E911 and Emergency Operations Center which is located on the southern portion of the campus. The drive on Waterstone Place is gated but does allow access with a key pad so employees do not have to leave their vehicles to enter.

Rogalski stated on April 14, 2011, the City Planning Commission (CPC) held a public hearing on this request. No one spoke for or against the request during the public hearing. The CPC, by a vote of 7 – 0, recommended approval of the request subject to the following conditions: 1) Installation of screening and landscaping along the east and west property lines from the rear property line to the front building limit line and 2) Lighting, if installed, must not trespass on the adjacent properties on Lots 21 and 23. As shown on the site plan, if the rezoning is approved, GPTC proposes to sell the east 12'6.5" of Lot 22 to the owner of Lot 21. This sale cannot be approved unless the property is rezoned because Lot 22 would not have the minimum lot area of 6,000 square feet required for R-1 zoning. The only lot area requirement in the P-F District is "The area and frontage of the property involved shall be sufficient for the specific intended use." The GPTC intends to deed the remainder of Lot 22 to the City of Lawton, and the City will accept maintenance responsibility of the drive.

Wells stated there should be something in the code to allow them to make an exception for 12 ½ feet without changing the land use plan.

Rogalski stated chapter 18 is very rigid and the Board of Adjustment is very limited on what they can do.

Wells stated they may want to look at that.

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

Haywood questioned if the Great Plains Technology Center was in support of this action.

Dr. Tom Thomas, Great Plains Technology Center, stated they would like to go ahead and deed this property over so they do not have to maintain it and also to provide the proper zoning for that access drive.

Givens questioned how the requirements that the CPC recommended get into the resolution and/or ordinance.

Rogalski stated they would be reflected on the site plan.

Jensen stated it would be part of the binding site plan when they get the ordinance.

MOVED by Haywood, SECOND by Wells, to adopt **Resolution 11-28**. AYE: Burk, Givens, Zarle, Haywood, Wells, Shoemate, Tennis, Bellino-Hall, NAY: None. MOTION CARRIED

MOVED by Haywood, SECOND by Wells to adopt **Ordinance 11-13** subject to the conditions listed, waive the reading of the ordinance, read the title only. AYE: Givens, Zarle, Haywood, Wells, Shoemate, Tennis, Bellino-Hall, Burk. NAY: None. MOTION CARRIED

(Title read by City Attorney)

Ordinance 11-13

An ordinance changing the zoning classification from the existing classification of R-1 (Single-Family Dwelling District) to P-F (Public Facilities 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.

31. Consider a resolution authorizing the Mayor to execute a mortgage instrument granting to the McMahon Foundation a security interest in a portion of the City's NW 67th Street and Rogers Lane property in order to further assure a source of repayment of the Original Lawton High School remodel construction bridge loan and to buttress the McMahon Foundation's guarantee of that loan. Exhibits: Mortgage Document; Resolution No 11-____.

Jensen stated he placed this item on the agenda tonight in hopes of having the appraisal so they could identify which parcels will be included in the mortgage. He stated they do not have the appraisal so he would recommend a motion to table this item until the next council meeting.

MOVED by Wells, SECOND by Givens to table to May 24, 2011 council meeting. AYE: Zarle, Haywood, Wells, Shoemate, Tennis, Bellino-Hall, Burk, Givens. NAY: None. MOTION CARRIED

32. Consider adopting an ordinance amending Sections 17-3-4-332, 333, 336, 339, 340, 341, 342, 346, 347, Division 17-3-4, Article 17-3, Chapter 17, Lawton City Code, 2005, by amending the personnel policies and procedures affecting the City of Lawton retirement plan, providing for severability and establishing an effective date. Exhibits: Ordinance 11-____.

Tim Wilson, Deputy City Attorney, stated the City has its own retirement system for general employees which have an underfunded issue and we have approximately \$21 million with unfunded liability. Staff has been working with the pension trust board to address this issue as well as negotiations with AFSCME, the general employee union. An agreement was made in January. The actuary has recommended going to a career averaging benefit for new hires and AFSCME has signed a contract agreeing to this change. The changes in this ordinance will affect those employees hired on or after June 30th of this year and their pension benefit will be based on a career average of their total salary throughout their years. The pension benefit for current employees is based on the salary of the highest three years of the last six years. For new employees it will be based on averaging their entire salary throughout their career. It is projected that over twenty years the unfunded liability will start to curve and go downward with these changes. Also in the ordinance they are changing the contributions the employees and the City make to the retirement system. Currently the employees pay 5.3% of their salary and that would go up to 6.3%. The City currently pays 9% of the employee's salary and that would go up to 10%. On February 28, 2011, the pension trust voted to recommend that the council adopt the proposed ordinance.

Wells questioned if the non union employees were still represented by the employee advisory committee.

Wilson stated no. He stated over a year ago there were information meetings where the actuary presented different options to all employees. He stated there are two employees on the pension board and they did vote to recommend this ordinance.

Wells stated if the council agrees to continue with the general employees union, they need to set up some kind of representation for the non union employees.

Mitchell stated when the council recognized the union, the employee advisory committee was disbanded.

MOVED by Wells, SECOND by Zarle, to adopt **Ordinance 11-14**, waive the reading of the ordinance, read the title only. AYE: Haywood, Wells, Shoemate, Tennis, Bellino-Hall, Burk, Givens, Zarle. NAY: None. MOTION CARRIED

(Title read by City Attorney)

Ordinance 11-14

An ordinance pertaining to personnel policies and procedures amending Sections 17-3-4-332, 333, 336, 339, 340, 341, 342, 346, 347, Division 17-3-4, article 17-3, Chapter 17, Lawton City Code, 2005, by amending the consolidation of existing system and preservation of rights; definitions; contributions and funding; normal retirement benefits; deferred retirement benefits; early retirement benefits; disability retirement benefits; optional forms of retirement benefits; and death benefits, providing for severability and declaring an effective date.

33. Consider an ordinance amending Paragraph C, Section 6-5-1-507, Division 6-5-1, Article 6-5, Chapter 6, Lawton City Code, 2005, pertaining to permits required to reconstruct, remodel or demolish structures declared dilapidated and requiring that all the City's abatement costs must be paid by the property owner prior to the City issuing a certificate of occupancy or a certificate of completion for the property, providing for severability and declaring an emergency. Exhibits: Ordinance 11-__.

Jensen stated in connection with the current dilapidated structure program, all of the abatement costs are not being paid before someone pulls a remodeling permit and then wants a certificate to occupy the structure or premises or a certificate of completion. There were some provisions in the existing code section that addressed that but, in staff's opinion, it did not address it strong enough. It also did not address the cost of litigation. This ordinance will strengthen the program and to require that before a person gets a CO or a CC, they will pay all of the costs owed to the City of Lawton including litigation costs.

Bellino-Hall questioned the meaning of "providing for severability and declaring and emergency".

Jensen stated that "providing for severability" is standard language in code sections, contracts, etc. If this code section was challenged in court and a judge felt that some portion of what we did was unconstitutional or unauthorized, that would not mean that the entire ordinance would

fail, it would just mean that the portion of the ordinance would fail. As far as a contract, if a portion of a contract was invalid, this would mean that the whole contract would not be invalid.

Mayor Fitch stated with the “emergency” it would mean the ordinance would go in effect immediately with six votes as opposed to going into effect in thirty days.

MOVED by Burk, SECOND by Tennis, to adopt **Ordinance 11-15**, waive the reading of the ordinance, read the title only, and declaring an emergency. AYE: Wells, Shoemate, Tennis, Bellino-Hall, Burk, Givens, Zarle, Haywood. NAY: None. MOTION CARRIED

(Title read by City Attorney)

Ordinance 11-15

An ordinance amending paragraph C, Section 6-5-1-507, Division 6-5-1, Article 6-5, Chapter 6, Lawton City Code, 2005, pertaining to permits required to reconstruct, remodel or demolish structures declared dilapidated and requiring that all the city’s abatement costs be paid by the property owner prior to the city issuing a certificate of occupancy or a certificate of completion for the property, providing for severability, and declaring an emergency.

AUDIENCE PARTICIPATION:

Kim Shahan, Parks and Recreation Director, reported on the municipal pool. He stated the pool will not be open this summer and the situation will have to be addressed.

Tennis stated it will be \$1.5 to \$2 million to build another pool in the CIP process. He questioned if they would have to come up with another \$83,000 in the budget to fix this.

Shahan stated in the process of the CIP planning, the Parks and Recreation Commission would recommend that a brand new facility be put in another area of the community. This facility was not addressed and was not discussed as part of the CIP program.

Shoemate questioned how many people use the pool and what do they pay to get in.

Shahan stated it might be \$3 per day. There are 60-100 users per day. The YMCA also uses it for certain programs.

Mayor Fitch stated that if they found the money to fix the pool it would still be late June or July before it could be fixed.

Shahan stated it would be difficult to have it operational for this season. He just wanted everyone to be made aware of the situation.

Burk stated in the discussion of a new pool, they talked about a pool in an enclosed structure that could be used year round. He stated if the CIP works the way they hope it will, some of the things they have in the program, like spray parks, will become areas that may be used instead of the pool. There is an opportunity to do some different things with the CIP money. He hopes they can find the money to get this pool fixed.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Burk thanked everyone who participated in the trash off.

Bellino-Hall reported that ward 3 now has its own facebook page. It is www.facebook.com/ward3rocks

COL Lacey reported that the May 24th council meeting will be his last meeting.

Givens stated he is working on a sidewalk district ordinance with Deputy City Attorney Scott Meadors. He stated if anyone is interested in helping to let him know. The idea is to allow a neighborhood to create a sidewalk district in their neighborhood and if 51% of the district agrees to it, it can be done through ad valorem. He would advocate that the City participate in part or full cost. This will work in neighborhoods with dilapidated sidewalks or the sidewalks are non existent.

Haywood stated he would like to work on this issue.

Givens suggested they form a council/citizen committee to review all of the neighborhood services ordinances. Some of the ordinances need to be strengthened or revised. That division needs some assistance.

Burk stated he would like to be a part of the committee.

Mayor Fitch stated the council needs some input from the council on various board appointments.

Mitchell distributed the preliminary budget. He stated the budget workshop will be held on May 18th at 1:30 p.m. The public hearing will be held on May 24th. Budget adoption is scheduled for June 14th.

There being no further business to consider, the meeting adjourned at 7:11 p.m. upon motion, second and roll call vote.

FRED L. FITCH, MAYOR

ATTEST:

DONNA GIBSON, DEPUTY CITY CLERK