

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
JUNE 11, 2013 – 6:00 P.M.
NEW CITY HALL
COUNCIL CHAMBERS/AUDITORIUM

Mayor Fred L. Fitch
Presiding

Also Present:
Bryan Long, City Manager
Frank V. Jensen, City Attorney
Traci Hushbeck, City Clerk

Mayor Fitch called the meeting to order at 6:02 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Pastor Chris Austin Lighthouse Baptist Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:

Bob Morford, Ward One
Rosemary Bellino-Hall, Ward Three
Jay Burk, Ward Four
George Moses, Ward Five
Richard Zarle, Ward Six
Stanley Haywood, Ward Seven
Doug Wells, Ward Eight

ABSENT:

Keith Jackson, Ward Two

PRESENTATION OF OUTSTANDING CITIZEN RECOGNITION TO DONNA CAMPOS-BARAHONA

Stricken from agenda.

AUDIENCE PARTICIPATION:

Sarah Hewes, representing Teddy and Debra Caldwell, 817 NW 31st Street, stated they had a item on the agenda May 25th regarding the denial of a claim and they were unable to speak on the claim during that meeting. The claim was for \$3,000 for damages at 303 SW Summit. She requested the council reconsider the claim. The Caldwells purchased the property on June 1, 2012 and the damage to the property was done between 1993 and 1998. The letter they received went back to 2010. The sewer line was not hooked up to the proper tap. Did the workers actually hook up the sewer line to the tap in the alley because everything that has been done since has only been done in the backyard, not the alley. They want to make sure the tap was done properly the first time. They would like the claim to be examined further.

Mayor Fitch questioned if they were here on May 25th.

Ms. Hewes stated they were here but there was a misunderstanding about the request to speak forms.

Mayor Fitch stated the item has already been voted on and a decision has been made. He stated staff could look back into the item and get in touch with Ms. Hewes if she would leave her information with the City Clerk.

Chief Dewayne Burk, Lawton Fire Department, stated he knows the value of what the Lawton Fire Department brings to the city everyday as well as the quality of the membership they have within the fire department. He stated they knew the budget was going to be difficult. The Firefighters Association has been around for thirty plus years and they have recognized the difficult decisions made by the council regarding the budget and they have come forward and said they were willing to forego and voluntarily freeze their pay steps and delay the 3% pay raise that was in their contract for a full year and suspend their incentive pay that was negotiated in their contract. They understand the sacrifices that everyone has to make.

Bruce Kizarr, President of IAFF Local 1882, stated in June 2010 they signed a four year contract. Chief Adams approached him earlier in the year about opening up the contract. He stated when the promise was made for the raises everything looked perfect and they did not want to hold the council to that obligation, but they also do not want to give up what they have. They are willing to push this off one year in hopes things will get better. He stated 21 members would have received a 3%, 56 would have received a 5 ½% and 59 members would have received an 8% raise. They did this because they do not want to lose any city employee jobs and they definitely don't want to lose any firefighter jobs. He stated they will be voting on the contract June 16, 17 and 18, and he is confident that it will pass.

Mayor Fitch stated when Chief Burk came to the council and started these discussions they were certainly shocked. He commended the members of the fire department who were willing to forego their raises this year and make this sacrifice. This will ease the budget situation and they do not want to see anyone laid off.

Bambi Hampton, 5818 NW Kenyon Avenue, stated when the budget cuts started coming the first thing she thought should have happened was for council to cut their pay.

Mayor Fitch stated a public hearing was held on May 28th to discuss the budget and ten people attended.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF MAY 28, 2013.

MOVED by Wells SECOND by Moses to approve the minutes of Lawton City Council regular meeting of May 28, 2013. AYE: Morford, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

CONSENT AGENDA:

Mayor Fitch stated they will strike items #15 and #16.

MOVED by Burk SECOND by Zarle to approve the consent agenda with the exception of items #15 and #16. AYE: Morford, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

1. Consider the following damage claim recommended for approval: Mark Ashton, dba Lawton Mini-Max Storage, LLC, in the amount of \$645.00. Exhibits: Legal Opinion/Recommendation and **Resolution No. 13-32**.
2. Consider the following damage claims recommended for denial: Kimberly Fisher in the amount of \$617.49, Michael and Denise Edwards in the amount of \$538.75 and Louise Monzingo in the amount of \$210.00. Exhibits: Legal Opinions/Recommendations.
3. Consider adopting a resolution approving payment on the judgment in the Workers' Compensation case of Richard T. Brown in the Workers' Compensation Court, Case No. 2012-10001KF. Exhibits: **Resolution No. 13-33**.
4. Consider extending the Retainer Agreement for Professional and Legal Services with Tom A. Frailey to serve as legal advisor to the Personnel Board on an “as needed” basis when the City Attorney has a conflict of interest, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Retainer Agreement for Professional and Legal Services on file in the City Clerk’s Office.
5. Consider renewal of the Retainer Agreement for Professional Services with Jim Avance, to provide professional investigative services to the City of Lawton, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Agreement is on file in the City Clerk’s Office.
6. Consider extending the Retainer Agreement for Professional Services with Scott Haney for expert analysis and consultation of a motorcycle/vehicle accident, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Retainer Agreement for Professional Services on file in the City’s Clerk Office.
7. Consider adopting a resolution designating places and times within municipal jurisdiction to discharge fireworks on July 4, 2013, and authorize the Mayor and City Clerk to execute the resolution. Exhibits: **Resolution No. 13-34**.
8. Consider approving a Memorandum of Agreement between the Comanche County Health Department and the City of Lawton for public health services and authorize the Mayor and City Clerk to execute the document. Exhibits: Memorandum of Agreement.

9. Consider approving the Memorandum of Understanding between the City of Lawton and the Lawton Metropolitan Planning Organization for metropolitan transportation planning for Fiscal Year 2014. Exhibits: Memorandum of Understanding between LMPO and the City of Lawton.
10. Consider approving the Memorandum of Understanding between the City of Lawton and the Lawton Metropolitan Planning Organization for Congestion Mitigation and Air Quality programs and projects during Fiscal Year 2014. Exhibits: Memorandum of Understanding between LMPO and the City of Lawton.
11. Consider endorsing the Fiscal Year 2014 Unified Planning Work Program for the Lawton Metropolitan Transportation Planning Process. Exhibits: FY 2014 UPWP is on file in the City Clerk's office.
12. Consider approving the construction plans for the entrance into Billingsley Ford located at 8209 NW Quannah Parker Trailway subject to conditions. Exhibits: Location Map.
13. Consider accepting a permanent utility easement for the water meter on Lot 3, Block 1, Lawton Downtown Center, Part 1. Exhibits: Easement on file in City Clerk's Office.
14. Consider accepting a permanent easement from Richard Lewis Clark Jr. & Anthony Lee Clark for right of way needed for the Nine Mile Creek Sanitary Sewer Interceptor Project#2008-2, authorizing the Mayor and City Clerk to execute the document and authorizing payment for the same. Exhibits: Location Map. Document is on file in the City Clerk's office.
15. Consider approving agreements for refuse disposal with the following entities and authorize the Mayor and City Clerk to execute the Agreements: Town of Indianahoma, Multiple Community Services Authority and Town of Temple. Exhibits: Agreements on file in the City Clerk's Office.

Jerry Ihler, Public Works Director, stated he understands the reason they wanted to pull this was to discuss possible fee changes during the year. He stated in the current contract it states that the services described in article one will be provided by the City to the cities and entities based on the current fees listed in the fee schedule of the City of Lawton code or as that fee schedule may be amended. Whatever they do with the fee schedule in the future, the contract addresses any changes in the fees in the future.

Wells stated right now they are paying the same as those in town. He suggested they have a separate fee for city contracts outside of Lawton with a different rate.

Ihler stated as long as they put that fee in the fee schedule, that would be referenced by this particular contract.

Jensen stated that is what the language is designed to address.

Wells stated outside cities have closed their landfills and are using our landfill space our citizens are paying for and he does not believe it is fair for people outside to get the same rate as the citizens of Lawton.

Mayor Fitch questioned if staff had a fee established tonight.

Ihler stated no, this is the first time he has heard of the issue of increasing their rates.

Mayor Fitch questioned if the budget approved tonight established new fees for outside communities.

Ihler stated no. The fees have not changed as it relates to the budget approved tonight.

Jensen stated the only landfill fee was for the gate charge.

Mayor Fitch suggested they leave this off tonight and bring it back when they have determined a fee.

Ihler stated they will need to address this at the next council meeting because these communities have to submit to DEQ by July 1st where they are taking their trash so they are not out of compliance.

Moses stated this could be a difficult cost to get a handle on, but they need to take a stab at it. He is tired of giving services away to adjacent communities.

Wells stated they should pay what it costs long term for what they are saving by using our landfill space. He stated the same with the next item and the euthanization costs. They need to pay a little more because they are using our chemicals.

Mayor Fitch stated they will just table these two items until the next meeting.

16. Consider approving agreements for euthanization services with the following entities and authorize the Mayor and City Clerks to execute the Agreements: City of Grandfield and Town of Medicine Park. Exhibits: Agreements on file in the City Clerk's Office.
17. Consider approving the proposed Cooperative Program and Memorandum Agreement between the Oklahoma Water Resources Board, the U.S. Geological Survey and the City of Lawton and authorizing the Mayor and City Clerk to execute the agreement. Exhibits: Proposed Cooperative Program and Memorandum Agreement is on file in the City Clerk's Office.
18. Consider awarding (RFPCL13-039) Rental or Lease Work Clothing to Cintas Corporation of Lawton, OK. Exhibits: Department recommendation, Price Bid Sheet.

19. Consider extending contract (RFPCL11-043) Temporary Workers with Express Employment Professionals of Lawton, OK. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.
20. Consider extending contract (CL12-047) Police Vehicle Radars with Applied Concepts, Inc of Plano, TX. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.
21. Consider extending contract (RFPCL12-045) Recycling Center Operations with Horn Sanitation of Lawton, OK. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.
22. Consider approving appointments to boards and commissions. Exhibits: None.

Lawton Arts & Humanities Council

Jamie Hall
3908 SW Mesquite
Lawton, Oklahoma 73505
Unexpired Term 06/30/14

Enhancement Trust Authority

Jane Godlove
726 NW 46th Street
Lawton, Oklahoma 73505
06/30/16

Carol Sweeney
2608 NW Lake Front Drive
Lawton, Oklahoma 73505
06/30/16

Mayor's Commission On The Status Of Women

Alice Combs
Ward 3
455 NW Chimney Creek Drive
Lawton, Oklahoma 73507
06/29/15

Lucy Laird
Ward 6
7113 SW Cherokee Circle
Lawton, Oklahoma 73507
06/23/15

Ellouise H Love
Ward 7
708 SW Sedalia Avenue
Lawton Oklahoma 73501
06/28/15

Jeanette Clement Shaw
Western County Commissioner
62 Talisha Trail
Cache Oklahoma 73527
06/26/15

Jennifer Krebs Ellis
At Large City or County
PO Box 43
Lawton, Oklahoma 73502
06/11/2015

Cheryl Hankins
At Large City Limit
414 SW 24th Street
Lawton, Oklahoma 73505
06/11/15

Museum Of The Great Plains Trust Authority

Dr. Edwin Chappabitty
Institute
3115 NE Colonial Drive
Lawton, Oklahoma 73505
06/30/16

Dr. Bob Morford
McMahon
1415 NW 33rd Street
Lawton, Oklahoma 73505
06/30/16

Dr. Enda Solitario
City of Lawton
3201 West Gore Blvd.
Lawton, Oklahoma 73505
06/30/16

Personnel Board

Tom Rheinlander
5108 NW Cherry
Lawton Oklahoma 73505
06/30/19

Redistricting Commission

G. Wayne Smith
Ward 1
4448 NW Baltimore
Lawton Oklahoma 73505
07/01/18

James Stewart
Ward 7
627 SW Sedalia Place
Lawton, Oklahoma 73501
07/01/18

23. Consider approval of payroll for the periods of May 27- June 9, 2013.

NEW BUSINESS ITEMS:

24. Consider reviewing and approving the City of Lawton Fiscal Year 2013-2014 budget and approving a resolution adopting the FY 2013-2014 City of Lawton budget. Exhibits: Resolution 13-___ will be distributed at meeting.

Long stated this has been a difficult budget process. He stated there has been some confusion on what the city council and city staff is facing in this budget dilemma. He frequently hears that they are \$8 million in debt and they are not. That is the reason that tough decisions are being made and open dialogue has occurred. State statute will not allow him to present the council with an unbalanced budget. He stated he is not going into a lot of detail of what the budget does and does not contain because the council has had plenty of discussion in that area.

(Long distributed the budget resolution).

Long stated the overall municipal budget includes every fund within the city. The resolution reflects his understanding of the concurrence of the council and the direction to him to include all

the feedback that he received along the way. This budget proposal encapsulates all the things discussed as far as service.

Burk questioned if Long had the last work sheet they looked at.

Long distributed the most current work sheet.

MOVED by Wells SECOND by Moses to approve **Resolution No. 13-35** adopting the FY 2013-2014 City of Lawton budget.

Mayor Fitch stated the things discussed that were of great concern to the council have been reestablished into this budget.

Wells stated last year's budget resolution was \$163 million and they have cut \$4 million this year back down to \$159 million. He stated it is painful to have a rate increase and he has not voted for one before but he does not see how they could approve a budget this year without a rate increase. He stated the things like the landfill entrance fee and the alarm registration fee will all come back to the City Council for discussion before an ordinance will be passed. He feels they have done a great job with this budget and have been as fair to the citizens as they could possibly be.

Morford stated he has heard from citizens more on the once a week garbage pick up. He questioned if they will be able to add a second garbage can.

Mayor Fitch stated they have about 250 extra cans in inventory right now. Those will be available for an additional \$5 charge. They will be ordering more as requests come in.

Morford stated people are very concerned that people will be dumping trash out on county roads.

Ihler stated there has been a rush on the cans and they are down to approximately 175 cans in inventory. They have ordered some cans that will be here in three weeks.

Moses stated this is a feasible budget that will work if everything happens the way it is supposed to happen on the revenue and expenditure sides. He stated the future is so uncertain that it will require some intensive management and watchfulness on every budget line in order to make sure that they get through this year in reasonable shape.

Mayor Fitch stated the sports and aquatics funding was at \$343,000 and it has been reinstated at \$323,000. The museum funding has stayed in tact at the full \$550,000. They did not decrease the LATS funding because of the amount of matching funding from the federal government. He stated they have suspended council contingency fund and part of council training and travel and the city at large grant match.

Zarle questioned if the alarm registration fee was for those who already have alarm systems or for new alarms.

Mayor Fitch stated it will be for everyone and will be billed through the alarm companies. It will be \$15 for a year.

Wells stated that will come back in an ordinance form and the council will discuss the amount. This does not approve that amount per say.

Long stated the process and procedure still remains to be determined. It will come back to the council for input. He stated this will be a license and permit function and they will charge a fee for a service on an annual basis and collect that fee.

Burk stated he understand they will raise \$200,000 from that fee, but he is still not sure what the fee is for. He understands that those who have multiple false alarms should be charged for those false alarms, but his fear is that there is \$200,000 budgeted and if the council don't agree to those fees, there will not be \$200,000 in there to budget. It does not make sense to approve a budget tonight with a \$200,000 line item that he is not sure he can support. Someone will have to explain to him why we would charge someone who has an alarm system. In his mind that helps with security and the police not having to make a trip to his house. Why should he have to pay a fee to help reduce the cost of having to have a police officer on every street? He does not follow the rationale of having the license. He stated a while back they talked about multiple false alarms but they have never done anything. He stated if they don't approve this is a few weeks they will not have a balanced budget.

Moses stated if it does not come about they will be back here dealing with it.

Wells stated if sales tax doesn't come in as projected they won't have a balanced budget and they will have to make adjustments. He stated when he worked here, 90% of the calls were false alarms with residential and commercial. That costs time and money and takes police officers away from doing other jobs. They are asking people to register their alarm and if they have three false alarms in a ninety day period they will have to start paying an extra fee. It helps if the city knows who has alarms. We don't have that information now.

Burk stated he feels that is a big brother thing. He stated people that have those alarms are saving us money in the long run. If we are having multiple false alarms we need to enforce our own code, but to say I need to know where your alarm is and charge you to garner \$200,000 in revenue, he does not know if he can go there. He does not have an issue with anything else in this budget except for this item. He does not know if he can vote for this budget if this is in there.

Haywood requested Long explain the water bill increase.

Long stated the proposed rate increase would be \$4 on the base residential and commercial water rate, 10% on volume after the base. There are 35,000 active accounts in our system. On sewer there is a \$1.50 base increase. They are proposing a 10% volume increase on sewer as well up to a cap of 10,000 gallons per home.

Haywood stated he may have a problem with this tonight.

Burk stated he has never been asked to pass a balanced budget and been asked to look at something after the budget has been passed. He thinks they are taking this at the back door level for this \$200,000. He has never been asked to pass a budget that they already think could possibly be wrong.

Mayor Fitch stated he thought this was in the budget and it would go into effect July 1st. This is the first he has heard that there would be an ordinance later on addressing the fee.

Jensen stated they will bring back an ordinance and resolution putting the fees into the fee schedule. With the water and sewer rates they already have an ordinance, they will just bring back a revised resolution changing the water and sewer fees. With these new fees, they will have to bring back an ordinance for the alarm registration fees and an amended ordinance for the landfill gate fees. There are some requirements they will have to meet at the next couple of meetings to implement these fees.

Long stated there are several ways we can balance our budget and he is asking for guidance and direction from the council on how to do that. He stated they pass the hotel/motel portion of the budget and contract afterwards with each entity. He stated with this, they are asking the council to make a commitment to revenue on the front side.

Burk stated if the council does not want the \$10 fee or they want it to be \$5 or zero, then we are \$200,000 short instantly.

Wells stated under sales tax revenue the Mayor had \$500,000 added in for the Target opening and the City Manager was not comfortable with that but he suggested they take that out because we don't know what that will be. He stated if they put that \$500,000 back in, then you have the \$300,000 for landfill fees and the \$200,000 for alarm fee covered.

Mayor Fitch stated they originally had the revised total for sales tax revenue at \$20,621,000 that was with the estimate based on the sales from Target that would create sales tax in the general fund. He stated they have the sales per square foot projections that they use on their stores and \$500,000 was a conservative figure after what they have paid what was committed to them. He stated 1% would be utilized to pay that commitment to them of \$2.5 million over five years and the other would go into the general fund. If you put that \$500,000 back in they are guaranteeing coverage on the two new fees if they were taken out or adjusted downward.

Long stated that is assuming you collect the \$500,000. The key to this whole thing is going to be monitoring.

Wells stated basically all they end up doing is putting that \$500,000 back.

Burk stated if they are going to talk about those two line items later on he does not think they should be in the budget until they are ready to say that is what they are doing.

Mayor Fitch stated they are required to get this budget to the state ten days prior to the new fiscal year. They cannot reconvene and bring these two items back with an ordinance because it is not on the agenda.

Wells stated all they will do is take those two items out and add \$500,000 to the sales tax revenue adjustment.

Burk stated he understands.

Wells stated it was his fault by suggesting he do it that way.

Burk stated no one is at fault, but he does not want to end up doing something that they cannot back up.

Wells stated it is backed up with the other.

Burk questioned if they could delete those other things.

Wells stated they will delete the landfill and alarm fees and add \$500,000 back to the sales tax revenue number.

Jensen stated they will need a substitute motion taking something out and adding something in.

Zarle questioned if they were estimating that we were getting an additional \$500,000 for the Target store over and above all the other sales tax.

Long stated yes.

Wells stated they don't have anything in the budget right now for the sales tax from the west side development.

Long stated it is not just Target, they are talking about the 82nd Street development, the 2nd Street development and any business that may spawn off as a result.

Wells stated he will pull his original motion.

MOVED by Wells SECOND by Moses to approve **Resolution No. 13-35** adopting the FY 2013-2014 City of Lawton budget with changes to remove the landfill gate charge of \$300,000 and the alarm registration service fee of \$200,000 and add back \$500,000 in sales tax revenue for the 82nd Street project.

Jensen stated they have done the work on the landfill ordinance but the alarm registration service ordinance will be much more controversial and staff will probably want some input before they try to bring it back for approval. They are talking about the issue of a registration fee or not and the issue of what they think is excessive and how much do they want to charge.

Long stated since those two items have been pulled from the budget it is not as imperative that they come back at the next meeting. If the council decided at a later date they wanted to supplement the budget through those fees, they could do so at a later time.

VOTE ON MOTION: AYE: Morford, Bellino-Hall, Burk, Moses, Haywood, Wells, Fitch.
NAY: Zarle. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Morford stated this budget is going to be tough on everyone but they all just need to make the best of it.

Wells stated this is the first time he has ever voted for rate increases but it is imperative this year that they do this to be fair to everyone involved. He stated the City Manager did a fantastic job in bringing options to the council and he feels the council did a good job in working through it and coming up with a solution.

Long thanked the council for working jointly with staff to make this budget a reality. He knows it was not what many of the council wanted to do or supported, but he does appreciate the fact that they see that there are limited options to pursue and he appreciates what they did tonight.

Mayor Fitch thanked the council and staff. He stated the council currently gets a quarterly expense account of the various departments and he would like to see that distributed on a monthly basis. He stated the burden of this budget is being shared by everyone. He stated COL Hossenlopp will be leaving in July and COL Glenn Waters will be joining the council in late July. He encouraged everyone to attend the Juneteenth celebration on Saturday, June 15th. He thanked Councilmember Haywood for all his work on this project for many years.

The Mayor and Council convened in executive session at 6:59 p.m. and reconvened in regular, open session at 7:48 p.m. Roll call reflected all members present.

BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

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

Jensen read the title of item #25. No action was taken.

26. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending lawsuit of Mary Cupit and Charles Beller, and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item #26. No action was taken.

27. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to review the Employment Agreement of Frank V. Jensen as City Attorney, and in open session take action as necessary. Exhibits: None.

Mayor Fitch read the title of item #27. He stated it was unanimous that Mr. Jensen has done a very satisfactory job and no action to take.

There being no further business to consider, the meeting adjourned at 7:50 p.m. upon motion, second and roll call vote.

FRED L. FITCH, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK