

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
JUNE 22, 2010 – 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
Traci Hushbeck, City Clerk
COL Ray Lacey, Fort Sill Liaison

Mayor Fitch called the meeting to order at 6:04 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Pastor Leonard Reimer, Faith Bible Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:

Bill Shoemate, Ward One
Michael Tennis, Ward Two
Janice Drewry, Ward Three
Jay Burk, Ward Four
Robert Shanklin, Ward Five
Richard Zarle, Ward Six
Stanley Haywood, Ward Seven
Doug Wells, Ward Eight

ABSENT: None

SIGNING OF CONTRACT BETWEEN CITY OF LAWTON AND IAFF LOCAL 1882

Mayor Fitch, along with officials from IAFF Local 1882, executed a four year contract.

AUDIENCE PARTICIPATION: None.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF JUNE 8, 2010.

MOVED by Drewry, SECOND by Burk, to approve the minutes of the Lawton City Council regular meeting of June 8, 2010. AYE: Zarle, Haywood, Wells, Shoemate, Tennis, Drewry, Burk, Shanklin. NAY: None. 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 Fitch stated item #6 needs to be stricken from the agenda and #4 needs to be addressed separately.

Wells requested items #11 and #18 be considered separately.

MOVED by Drewry, SECOND by Burk, to approve the consent agenda with the exception of items #4, #6, #11 and #18. AYE: Haywood, Wells, Shoemate, Tennis, Drewry, Burk, Shanklin, Zarle. NAY: None. MOTION CARRIED.

1. Consider approving a resolution extending the provisions of the parties' FY 2009-2010 Collective Bargaining Agreement between the City and IUPA Local 24 into FY 2010-2011 until such time as the parties resolve their collective bargaining disputes, or until further action by the City Council. Exhibits: **Resolution 10-59.**
2. Consider adopting a resolution approving the settlement by a joint petition and making payment in the pending workers' compensation claim of Stephanie Crawford. Exhibits: **Resolution 10-60.**

3. Consider adopting a resolution ratifying the action of the City Attorney and the City Manager in directing our third party administrator to make payment on the judgment in the Workers' Compensation case of Justin Hall in the Workers' Compensation Court, Case No. 2009-13493K. Exhibits: **Resolution 10-61**.
4. Discuss declaring three (3) individual tracts of land as surplus property, set a minimum bid for the purchase price of each individual tract, and authorize the sale of each tract by public auction. Exhibits: Legal and Physical Description.

Jensen stated staff is recommending that three individual tracts of land be declared surplus. They need to set a minimum bid price for each individual tract and authorize the sale of each tract by public auction.

Steven Greb, Assistant City Attorney, stated staff is recommending a minimum bid on tract one be established at \$4,500, which is 60% of an estimated fair market value for the tract. The assessed fair cash value is \$7,500 and appraised value is \$7,500. For tract two staff is recommending a minimum bid be established at \$5,900 which is 60% of an estimated fair market value for the tract. The assessed fair cash value is \$9,860. For tract three staff is recommending a minimum bid be established at \$1,400 which is 60% of an estimated fair market value for the tract. The assessed fair cash value is \$2,400.

MOVED by Wells, SECOND by Shanklin, to declare three individual tracts of land as surplus property, set the minimum bids as recommended, and authorize the sale of each tract by public auction. AYE: Wells, Shoemate, Tennis, Drewry, Burk, Shanklin, Zarle, Haywood. NAY: None. MOTION CARRIED.

5. Consider approval of the Retainer Agreement for Legal Services between the City of Lawton and McAfee & Taft and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Retainer Agreement for Professional & Legal Services on file in City Clerk's Office.
6. Consider approval of the Retainer Agreement for Professional Services with Zahl-Ford, Inc. to provide professional structural engineering services to the City of Lawton, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Agreement on file in City Clerk's Office. **THIS ITEM WAS STRICKEN.**
7. Consider approval of the Retainer Agreement for Legal Services between the City of Lawton and John C. Mackey, Jr., and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Agreement is on file in the City Clerk's Office.
8. Consider renewing the professional services agreement with John C. Mackey, for various matters involving real property, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Agreement is on file in the City Clerk's Office.
9. Consider renewing the professional services agreement with Mackey Law Firm, to provide professional property research 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.
10. Consider approving an Agreement for Limited Services between the Museum of the Great Plains Authority and the City of Lawton to fund the continued operation of the Museum, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Agreement.
11. Consider approving a renewal Agreement effective July 1, 2010 through June 30, 2011 between the State of Oklahoma Office of Juvenile Affairs and the City of Lawton for the continued operation and management of a Community Intervention Center in Lawton, and authorize execution of the renewal Agreement and an Affidavit of Assignment authorizing payment directly from the State to Marie Detty as the CIC subcontractor. Exhibits: Renewal Agreement and Affidavit of Assignment on file in City Clerk's Office.

Wells questioned if the \$70,000 was in the budget.

Jensen stated the \$70,000 is in the police budget.

MOVED by Wells, SECOND by Zarle, to approve a renewal Agreement effective July 1, 2010 through June 30, 2011 with the State of Oklahoma Office of Juvenile Affairs for the continued operation and management of a Community Intervention Center. AYE: Shoemate, Tennis, Drewry, Burk, Shanklin, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

12. Consider authorizing application of the 2010 Department of Justice Edward Byrne Assistance Grant Local (JAG) and approve an Interlocal Agreement with Comanche County for division of funding, and authorize the Mayor and City Clerk to execute the agreement. Exhibits: Interlocal Agreement is on file in the City Clerk's Office.
13. Consider approving the annual Cooperative Agreement and an Agreement for Limited Funding between the City and Transit Trust to provide funds for the operation of a public transit system and authorize the Mayor and City Clerk to execute the same. Exhibits: Cooperative Agreement and Limited Funding Agreement are on file in the City Clerk's office.
14. Consider approving a Tri-Party Public Deposit Pledge & Custody Agreement between the City of Lawton, BancFirst, & The Bankers Bank, and authorize the Mayor & City Clerk to execute the agreement. Exhibits: Proposed Tri-Party Public Deposit Pledge and Custody Agreement.
15. Consider approving Early Retiree Reinsurance Program Data Exchange and Service Agreement with Blue Cross/Blue Shield of Oklahoma and authorize the City Manager to execute the agreement. Exhibits: Agreement on file with the City Clerk.
16. Consider approving contract Amendment #1 with Robert B. Hendrick & Sons Co., Inc. for additional engineering services for the S.E. 45th Street Reconstruction (Lee to Gore) Project #2006-12. Exhibits: Amendment #1 to Agreement.
17. Consider approving a credit adjustment in the amount of \$694.20 to James Tippens' service account #00020542 for the property at 3702 NW Rogers Lane for an undetected, underground leak on the customer's water service line. Exhibits: Invoice dated 3/10/10 from Wichita-Snider Mechanical.
18. Consider approving a credit adjustment in the amount of \$8,402.47 to Matt Purvis' service account #00018208 for the property at 4602 SW Bishop Road for an undetected, underground leak on the customer's water service line. Exhibits: Invoice dated 4/3/10 from Pierce & Sons Sprinkler Systems and Map of Mr. Purvis' property and water line.

Wells questioned if this property was in the city limits and also questioned how long this leak went on to get up to \$8,402.

Rick Endicott, Finance Director, stated this property is inside the city limits.

Wells stated a leak this size should have shown up.

Barbara Curran, Revenue Services Supervisor, stated that amount was for two months. The second bill was for over 2 million gallons. Normal usage was about 13,000 gallons a month.

Haywood stated he spoke with Mr. Purvis and this was a long way from the water line. The leak could have gone a long time without being detected. He advised Mr. Purvis to come in and talk with Mr. Endicott.

Endicott stated staff had already detected the leak and they notified Mr. Purvis.

Curran stated they are not aware of an issue until they get a report when that cycle is about to bill and that is their first indication that there is an issue. They wrote up a service call and notified the customer.

Shanklin questioned if we could identify a leak after one month.

Curran stated yes, but by that time it is normally into the next billing period by the time they get it fixed.

Matt Purvis, 4602 SW Bishop Road, stated he is at the end of a 1,400 foot water line that is not on his property. The water meter is not even on his property. When his water was shut off he contacted city staff, then he contacted a plumber and got the leak fixed within 24 hours. He had no idea there was a leak.

Zarle questioned why our new satellite meter system did not send some kind of a signal to someone when there was such an excessive use of water.

Endicott stated the system does pick up the usage that is running through the meter, but it only picks it up once a month when the reading is done. He stated if staff is aware of a problem, they can go and look at the daily usage, but they would have to be aware of the situation.

Wells questioned if IS could write a program that would check that file each night to see if there is a high amount of usage. We are storing that data.

Endicott stated the system has the capability of doing that but it is an issue of the eyes looking at the report and monitoring any discrepancies.

Wells stated that this could be a way to pick up on something like this.

Tenis questioned when city staff or Mr. Purvis noticed this was unusually high. He is trying to understand how they can go from a normal use to over half a million and then to two million. How do you get to the two million at all?

Curran stated staff notified the customer when they received the first report of the 696,000 gallons used. By that time it was already into the next reading period and the usage is increasing due to the leak. She stated the reading was on the March 4th and they looked at the exception report and on March 9th they sent out a service call and they went to the meter.

Endicott stated the leak was repaired on April 3rd.

Haywood stated they need to go to the house, not the meter.

Wells questioned how it could continue running through March if they turned it off on March 9th. He questioned who turned it back on.

Mr. Purvis stated he is not sure when the repair was done.

Wells stated there was no usage from March 9th to April 3rd.

Endicott stated there was a service call made on March 9th, but they are not sure if the water was turned off on that date. The records are clear that the plumbers invoice is dated April 3rd and that is what they are going by. During that period he used two millions gallons. The disconnect is that crews may have tagged it on March 9th, but no one at the house was notified. He will have to check to see if they actually turned the water off on the 9th.

MOVED by Haywood, SECOND by Tenis, to approve a credit adjustment in the amount of \$8,402.47 to Matt Purvis. AYE: Tenis, Drewry, Burk, Shanklin, Zarle, Haywood, Wells, Shoemate. NAY: None. MOTION CARRIED.

19. Consider acknowledging the receipt of a Tier I permit from the Oklahoma Department of Environmental Quality to supply water to Buffalo Bob's RV Park located at 1420 SE Tower Road located in the NE/4 of Section 4, T1N, R11W, I.M., Comanche County, Oklahoma. Exhibits: Permit to supply water on file in the City Clerk's Office.
20. Consider approving appointments to boards and commissions. Exhibits: None.

Building Development Appeal Board

Barry Ezerski
Real Estate Agent
1701 NW Cache Road
Lawton, Oklahoma 73507
07/26/12

Larry Gordon
Plumbing Contractor
619 SW Sheridan Road
Lawton, Oklahoma 73505
07/26/12

Douglas Shilling
Electrical Contractor
PO Box 6898
Lawton, Oklahoma 73505
07/26/12

Dan Tucker
Mechanical Contractor
6916 SW Beta
Lawton, Oklahoma 73505
07/26/12

Johnny Owens
Commercial Property Owner
PO Box 181
Lawton, Oklahoma 73502
07/26/12

Don Zacharias
Commercial Contractor
#1 SW Texas Avenue
Lawton, Oklahoma 73501
07/26/12

City Planning Commission (CPC)

Jim Nisbett
2903 Templeton Terrace
Lawton, Oklahoma 73505
Unexpired Term 07/26/11

McMahon Memorial Auditorium Authority

Terry Anderson
1311 SE Tattershall Way
Lawton, Oklahoma 73501
06/30/2013

Max Sasseen
423 NW Chimney Creek
Lawton, Oklahoma 73505
06/30/2013

Tom Sutherlin
154 NW 36th Street
Lawton, Oklahoma 73505
06/30/2013

Geraldine (Gerry) Crain
Ward 6
410 NW 72nd Street
Lawton, Oklahoma 73507
Unexpired Term 06/23/11

Shirley Stricklan
Eastern County
Carlson Road
Elgin, Oklahoma 73538
07/09/12

Museum Of The Great Plains Trust Authority

Dr. Bob Morford
McMahon
1415 NW 33rd Street
Lawton Oklahoma 73505
06/30/13

Dr. Edna Solitario
Council
3201 W Gore Blvd.
Lawton, Oklahoma 73505
06/30/13

Redistricting Commission

Pat Henry
CPC Member
2601 NW Lake Ridge Drive
Lawton Oklahoma 73505
07/01/15

21. Consider approval of payroll for the period of May 31 – June 13, 2010.

OLD BUSINESS ITEMS:

22. Consider approving an Interlocal Cooperative Agreement for Mutual Enforcement of State Laws and Local Ordinances for the Protection of Public Health, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Interlocal Cooperative Agreement for Mutual Enforcement of State Laws and Local Ordinances for the Protection of Public Health; Code §15-1-110; Code §2-2-1-215; Code §2-2-1-217. **THIS ITEM WAS STRICKEN.**

NEW BUSINESS ITEMS:

23. Consider an ordinance amending Section 2-3-2-311 and adding Section 2-3-2-316, Lawton City Code, 2005, clarifying the use of the term “City Planning Commission” and permitting its bylaws to provide for commission governance and excusing members’ absences from meetings and declaring an emergency. Exhibits: Ordinance No. 10-____.

Richard Rogalski, Planning Director, stated the City Planning Commission (CPC) is requesting that the code be changed to allow their bylaws to control absenteeism. The real issue has to do with excused absences versus unexcused absences. Right now you are off the commission if you have three absences for any reason. Over the past years there have been some health issues with commission members.

Wells questioned if the CPC’s bylaws are different from other commissions.

Mitchell stated it sounds as though their absences are counted whether they are excused or not.

Rogalski stated the CPC is requesting that the code be modified to allow subsequent bylaw changes to control absenteeism.

Wells suggested that instead of doing something special for CPC, they modify the ordinance to say that with three unexcused absences, upon recommendation of the commission, the Mayor can remove the person from that commission. He is sure that all commissions have the same sort of problem.

Jensen stated they are talking about a lot more work than this section entails. This section talks specifically about the CPC, this is not in general terms.

Wells stated the problem he is having is that they initially are talking about absences and all of the sudden they are saying they can do whatever they want in their bylaws and what if it comes back and the City Council doesn’t catch something.

Jensen stated we have boards and commissions right now that adopt their own bylaws and as a matter of protocol they send them to the City Council for review. This is simply going to take care of what other boards and commissions are already doing with regards to excused absences. The CPC just was not in that loop.

Mayor Fitch stated this will be the easiest way to address this problem rather than bringing back another ordinance.

MOVED by Drewry, SECOND by Burk, to adopt **Ordinance 10-25**, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Drewry, Burk, Shanklin, Zarle, Haywood, Shoemate, Tennis. NAY: Wells. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 10-25

An ordinance pertaining to administration amending Section 2-3-2-311, and adding Section 2-3-2-316, Division 2-3-2, Article 2-3, Chapter 2, Lawton City Code, 2005, by clarifying use of the term “City Planning Commission” and by permitting its bylaws to provide for commission

governance and excusing members' absences from meetings; providing for codification, and providing for severability and declaring an emergency.

24. Reconsider approving a request from the School House Slough concessionaire, Kent Waller, to construct two proposed boat docks to be built at School House Slough in accordance with the lease agreement at School House Slough approved 1997 between himself and the City of Lawton. Exhibits: Ltr, Kent Waller dtd May 13, 2010 and Map with location identified.

Bryan Long, Assistant City Manager, stated this is a continuation of a request made by Mr. Waller on January 26th. He stated it was determined by the City Council that this was not an acceptable request. Mr. Waller approached the legal and parks and recreation staff to try and find a resolution that would be acceptable to everyone. When a solution could not be found, Mr. Waller then approached the Mayor.

Shanklin stated there is no place for anyone to even turn around out there.

Long stated part of this plan would entail an emergency gate being set up, therefore there would be no cross traffic on the northern peninsula. That was staff's major concern.

Drewry stated that whole area is so congested with people going in and out and people trying to get in to their boat slips are going to have a very difficult time. People have no place to park and she thinks it will be so congested it will be impossible to use it.

Tenis stated he would have liked to have heard from Mr. Shahan on why this is not a good idea.

Long stated it was predominately safety concerns and the availability of citizens reaching target areas for fishing.

Burk stated he has received phone calls from people who are concerned about the congestion and whether or not they can get in and out of the area.

Mayor Fitch stated on the north peninsula there will be gates put up that will allow pedestrian traffic out on the peninsula but will not allow cars.

Wells stated he cannot understand from the drawing what they would be approving.

Mayor Fitch stated nothing will be constructed on the east end of the slough.

MOVED by Wells, SECOND by Drewry, to deny the request from Mr. Waller.

Kent Waller, School House Slough concessionaire, stated his contract which was approved by the City Council in 1997, authorized the construction of these docks when needed. He is now ready to build them. They have taken out several boat docks and slips and they are just replacing them.

Mayor Fitch stated docks are being removed on the north side of the back part of the slough.

Mr. Waller stated they want to take the two boat slips that are on the south jetty and move those over on the north jetty and build one new boathouse on the south jetty.

Tenis questioned if the City Attorney had reviewed the contract from 1997.

Jensen stated he did review it again when he met with Mr. Waller. He stated the amendment added the proposed sail boat dock on the east end of the slough, a proposed dock on the south finger, which has been constructed and a proposed dock on the north finger which was not constructed. This contract was entered into back in 1997 and even though Mr. Waller stated there was no time limit on constructing this, under the original agreement he was under a proposed five year plan to make all of these improvements. He stated his legal opinion to Mr. Waller was that the City Council did have the right to deny this request.

Shanklin stated Mr. Waller has not told them how much he intends to spend because then he will have to stick with that number.

Jensen stated if he felt the City Council did not have a legal right to deny this back in January, he would have said so, but that does not stop him from trying to work out a possible compromise if the Council wants him to.

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

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Mayor Fitch stated the Charter Review Committee will host two meetings to give the public the opportunity to express any ideas or concerns regarding the charter. They will be held on Monday, July 12th at 6:00 p.m. and Monday, July 19th at 2:00 p.m. in the City Council Chambers. The committee invites all council members to attend and participate in the discussion.

Mayor Fitch stated events will be held over the July 4th weekend at Elmer Thomas Park. He encouraged everyone to attend.

Haywood thanked everyone for their assistance in making Juneteenth a huge success. He stated there were approximately 7,000 people in attendance.

Wells encouraged councilmembers to attend the brigade changes of command which will be held on Wednesday and Thursday at 9:00 a.m. He stated these are very impressive ceremonies.

COL Lacey stated the Toby Keith concert will be held on July 2nd so that families will stay on the installation and can also attend regional July 4th activities. He stated 4th of July ceremony will be held on July 5th.

Tennis encouraged everyone to attend the Charter Review Committee meetings. This is something that they should take very serious.

Haywood questioned if they could make any comments now regarding the charter.

Mitchell stated they can submit comments to the committee in writing or attend one of the meetings.

Mitchell stated the City Planning Commission is organizing an airport noise overlay zone committee and they would like to have one or two members of the council serve on that committee. The committee will study the airport noise overlay zone as a part of the Lawton Fort Sill Regional Airport Master Plan.

Haywood, Wells and Zarle volunteered to serve on the committee.

The Mayor and Council convened in executive session at 7:05 p.m. and reconvened in regular, open session at 7:21 p.m. Roll call reflected all members.

BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

25. 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, and FY 2010-2011, between the American Federation of State, County and Municipal Employees (AFSCME) Local 3894, and the City of Lawton, and, if necessary, take appropriate action in open session.

Jensen read the title of item 25.

MOVED by Drewry, SECOND by Wells, to approve **Res. 10-62** extending the provisions of the FY 2008-2009 collective bargaining agreement between the City of Lawton and the American Federation of State, County and Municipal Employees Local 3894 for the period of July 1, 2010

through June 30, 2011 or until further action by the Council. AYE: Haywood, Wells, Shoemate, Tennis, Drewry, Burk, Shanklin, Zarle. NAY: None. MOTION CARRIED.

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

Mayor Fitch read the title of item 26. He stated it was consensus of the Council that Mr. Jensen has performed outstandingly in his position.

There being no further business to consider, the meeting adjourned at 7:23 p.m. upon motion, second and roll call vote.

FRED L. FITCH, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK