

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
JULY 23, 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
COL Glenn Waters, 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 Pastor Mike Ellis, Calvary Baptist Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:

Bob Morford, Ward One
Keith Jackson, Ward Two
Rosemary Bellino-Hall, Ward Three
Jay Burk, Ward Four
Dwight Tanner, Jr., Ward Five
Richard Zarle, Ward Six
Stanley Haywood, Ward Seven
Doug Wells, Ward Eight

ABSENT:

None.

AUDIENCE PARTICIPATION:

Kim Shahan, Parks and Recreation Director, stated tickets for the July Moon music event scheduled for this Saturday have been offered to City of Lawton employees at a discounted rate of \$20. Tickets must be purchased prior to the event. He stated 50% of all proceeds will go to fund shelters for Oklahoma schools. He stated the national softball tournament will be held next week and 41 teams will be coming to play.

CONSENT AGENDA:

MOVED by Wells SECOND by Jackson to approve the consent agenda. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

1. Consider the following damage claim recommended for approval: Southwestern Bell Telephone, dba AT&T Oklahoma in the amount of \$300.70. Exhibits: Legal Opinion/Recommendation.

2. Consider the following damage claims recommended for denial: Steve Livingston, A&G Auto Sales in the amount of \$2,573.26 and Judith Nazaryk for White Glove Realty in the amount of \$590.33. Exhibits: Legal Opinions/Recommendations.
3. Consider approving an Outside Water Sales Contract with Misty Collins, and authorize the Mayor and City Clerk to execute the Contract. Exhibits: Location Map and Contract is on file in the City Clerk's Office.
4. Consider adopting a resolution approving the compromise settlement and making payment in the workers' compensation claim of Chester Howe. Exhibits: **Resolution No. 13-44.**
5. Consider approving the renewal of the annual agreement between the center for Creative Living Corporation and the City of Lawton for services to senior citizens. Exhibits: Center for creative Living Agreement.
6. Consider approving the annual agreement between the Lawton Mobile Meals, Inc., and the City of Lawton for the specific purpose of preserving the health and welfare of homebound elderly and/or disabled citizens of Lawton, Oklahoma. Exhibits: Mobile Meals Agreement.
7. Consider accepting Fiscal Year 2013-2014 supplemental grant funds from the Federal Corporation for National and Community Service (CNCS) for the Retired and Senior Volunteer Program (RSVP). Exhibits: Federal CNS Notice of Grant Award Amendments 0 through 2.
8. Consider approving the renewal of the annual agreement between the Delta Nutrition Project and the City of Lawton. Exhibits: Lease Agreement.
9. Consider approving the renewal of the annual lease agreement between the City of Lawton and the Crossroads Youth and Family Services Center, Inc., dba, Crossroads Head Start/ Early Head Start. Exhibits: Lease Agreement.
10. Consider accepting the annual service/maintenance agreement authorizing Novalco to maintain the Library's automatic sliding doors. The agreement will cover the fiscal year period of July 1, 2013-June 30, 2014. Exhibits: Novalco, Inc. Service/Maintenance Agreement.
11. Consider accepting three permanent easements and three temporary easements from Mary M. Bott, Trustmanager, Clarence C. Bott Trust 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 documents and authorizing payment for the same. Exhibits: Documents are on file in the City Clerk's office and Location Maps.

12. Consider accepting two permanent easements and two temporary easements from Jarrell R. & Joan F. Wise 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 documents and authorizing payment for the same. Exhibits: Location Maps. Documents are on file in the City Clerk's Office.
13. Consider acknowledging receipt of the construction permit from the Oklahoma Department of Environmental Quality for construction of a pump station and 11,500 linear feet of force main from the Wastewater Treatment Plant to Comanche Lake at the AEP/PSO facility. Exhibits: Permit to construct dated May 8, 2013 on file in City Clerk's office.
14. Consider adopting a Resolution authorizing the installation and/or removal of traffic control measures on: Eastbound NW Cache Road at NW 16th Street signalized intersection; eastbound NW Quanah Parker Trailway west of NW 82nd Street; westbound SE Dorchester Drive at the intersection of SE Sullivan Drive; eastbound right turn on US 277-281 at the intersection of SW 6th Street; SW 9th Street between SW 'A' Avenue and SW 'B' Avenue; NW Morford Drive between W Gore Boulevard and the alley south of NW Arlington Avenue; and SE 40th Street at the 'T'-intersection of SE Elmhurst Lane. Exhibits: **Resolution No. 13-45** and Traffic Commission Minutes and Traffic Issue.
15. Consider approving the Third Amendment to the Agreement with Stearns, Conrad and Schmidt Consulting Engineers, Inc. d/b/a SCS Engineers for additional engineering services for operations, monitoring, and maintenance of the Landfill Gas Collection & Control System that was constructed with Project #2011-2. Exhibits: A copy of the Third Amendment to the Agreement is on file in the City Clerk's office.
16. Consider awarding (CL13-046) Manhole Rings & Covers to Pioneer Supply of Moore, OK. Exhibits: Department Recommendation, Price Bid Sheet and Abstract of Bids.
17. Consider extending contract (CL13-006) Nomex Uniforms with Casco Industries, Inc. of OKC, OK. Exhibits: Department Recommendation, Contract Extension Form, and Price Bid Sheet.
18. Consider approving appointments to boards and commissions. Exhibits: None.
19. Consider approval of payroll for the periods of July 8- 21, 2013.

OLD BUSINESS ITEMS:

20. Consider approval of an Agreement in Principle with the Lawton Fort Sill Chamber of Commerce for a Contract for Services with Bill Phelps & Associates, LLC, beginning July 1, 2013 through June 30, 2014, for the purpose of providing professional consulting/lobbyist services to the City and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Consultant Agreement.

Mayor Fitch stated this item was on the agenda last council meeting and it was publicly addressed. He was not in attendance so he was able to bring this item back because it was a tie vote. He stated he has been in touch with the legislative delegation and received their support. He stated Mr. Phelps attends those committee meetings where Lawton is not represented and he keeps us posted on where specific legislation stands. He stated Mr. Phelps has been instrumental with the downtown project receiving matching state funds for the sales tax that was generated.

Bellino-Hall questioned if Mr. Phelps was in attendance.

Mayor Fitch stated no, he had another engagement with a client.

Bellino-Hall stated Mr. Phelps makes \$4,000 a month between the City of Lawton and the Chamber of Commerce plus he get paid expenses as well as \$2,000. She stated she has not seen any accountability for what he has done. The City is tight for money and we are spending \$50,000 for a lobbyist. She feels we have tremendous support in the legislature and Speaker Shannon and she cannot support this. She could see negotiating a lower salary on this issue.

Mayor Fitch stated all the legislators addressed the fact that they could not have accomplished what they done as the Lawton delegation without the work of Mr. Phelps. He stated the Chamber pays half of this with hotel/motel funds.

Bellino-Hall stated that is taxpayer money. This is all citizens' money.

Mayor Fitch stated the Chamber of Commerce has a legislative affairs committee which meets and puts together the state and federal legislative agenda. He has visited with the chamber to make sure that all council members are on the email list for the legislative affairs committee. The council will also be invited to those meetings to help build that legislative agenda.

Morford questioned if Mr. Phelps just works for Lawton or does he work for other cities.

Mayor Fitch stated he works for Centerpoint Energy, one other publicly traded company and also OML.

Haywood stated he spoke with Senator Bass on Friday and he was told that Mr. Phelps can walk in Speaker Shannon's office anytime and talk with him. It means a lot to have access to the Speaker of the House. He stated Oklahoma City has about 20 lobbyists and they try to get all the money. If we don't have a lobbyist we are going to be in trouble and we will lose money. He feels this is worth the money.

Tanner stated he spoke with Mr. Phelps and he knows what he is doing. He stated we have a cash flow crises and a lot of cuts have been made. He would like to see Mr. Phelps take a pay cut, even if it is a small amount. He stated Mr. Phelps did not show up at the last meeting and he feels if he is going to collect a \$50,000 pay check, he feels he should have shown up. He suggested they table this until Mr. Phelps can attend a meeting.

MOVED by Tanner SECOND by Bellino-Hall to table this item.

SUBSTITUTE MOTION by Jackson SECOND by Haywood to approve an Agreement in Principal with the Lawton Fort Sill Chamber of Commerce for a Contract for Services with Bill Phelps & Associates, LLC, beginning July 1, 2013 through June 30, 2014. AYE: Jackson, Burk, Zarle, Haywood, Wells. NAY: Morford, Bellino-Hall, Tanner. MOTION CARRIED.

NEW BUSINESS ITEMS:

21. Consider authorizing application of the 2013 Department of Justice Edward Byrne Assistance Grant Local (JAG) and hold a public hearing reference same. Exhibits: None.

Assistant Chief James Apple, Lawton Police Department stated they have been approved for this grant in the amount of \$79,018. They have typically in the past done an 80/20 split with the Comanche County Sheriffs Department. They are seeking approval by the council to submit the final approval for this grant. The Lawton Police Departments share is \$63,214.40 and the county will receive \$15,803.60. Comanche County approved the grant yesterday. He stated a public hearing is required within 30 days of the deadline. (He distributed a program and budget narrative which listed what was needed for the department).

Long requested Chief Apple explain why the county is involved.

Chief Apple stated the money is coming from the Department of Justice and they seek disparate jurisdiction involvement. County law enforcement is a part of the city of Lawton and the majority of the splits we do with the county are on an 80/20 split.

Morford stated some of the items on the list look like items the police department has asked for on their budget requests.

Chief Apple stated some of the items were big ticket items that were not asked for in capital outlay. There were some items that were requested, but due to a flat budget this year, they were not approved.

PUBLIC HEARING OPENED.

Sharon (last name not given), Fields and Dunning, stated there is grant money available and questioned if the city ever reached out for additional funding.

Mayor Fitch stated millions of dollars of grant money go unused every year. He stated various departments within the City of Lawton apply for grants and have been very successful in that area.

Morford stated the museum received a huge grant this past year.

PUBLIC HEARING CLOSED.

MOVED by Wells SECOND by Zarle to authorize the Lawton Police Department to apply for and accept the grant and the City Manager to sign the necessary forms. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

22. Consider requiring the City Manager or his designee to give a verbal and written report on all financials on a monthly basis. If the report shows there are deficiencies the City Manager or his designee is to give a proposal on how to correct the deficiencies.
Exhibits: None

Jackson stated reports are given to the city council on a monthly basis and even though things are going relatively well, he feels that we still need a little more openness and we need to make sure that the City Manager or his designee comes forward to the city council and verbally gives them the rough synopsis of the monthly revenue report. He would prefer that the City Manager or the Finance Director come forward at the appropriate times when the reports are given out and tell the council where we are at. If there is a deficiency in the budget that has been made aware of in this report then let the council know what they are and make a proposal to correct the problem if there is one.

Burk stated it would help if they could get the report a couple days before the council meeting because he would like to look it over and have questions ready for the council meeting.

Bellino-Hall questioned if the report was on line.

Wells stated it is on the city's website.

Long stated he feels they need to do a better job of verbalizing the findings. He stated the report is available in the drop box on their ipads.

MOVED by Jackson SECOND by Morford to require the City Manager or his designee to give a verbal and written report on all financials on a monthly basis. If the report shows there are deficiencies the City Manager or his designee is to give a proposal on how to correct the deficiencies. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Mayor Fitch welcomed COL. Waters. He encouraged him to talk about what is going on at Fort Sill. (Mayor Fitch presented him with a key to the city).

Wells reminded COL. Waters that he can agenda any items he feels will affect both Lawton and Fort Sill. He encouraged him to speak up and tell the council what the needs are at Fort Sill.

Mayor Fitch stated the council members will be receiving notification of a trip hosted by the Chamber to Oklahoma City to sit down with the president of the Oklahoma City Greater Chamber to talk about how they have addressed problems and things they have done. He stated the date will be September 12th.

Long stated he has been tracking our response within the community in terms of the editorials and articles that are written in our paper. The past three editorials were written on July 7th, July 9th and July 21st. It is important to understand what his response has been to these items that have been brought before all of us. On July 10th he called the management of the paper and discussed the fact that they needed to keep open lines of communication. He felt they were being challenged to communicate. He stated on July 11th a meeting was scheduled to sit down with the editorial staff of the paper, specifically regarding some of the issues that have been brought to the public's attention within the editorials that were published. Every issue that was discussed was a matter of public record and he was very open to hear these concerns expressed. His particular concern is the way that items are being expressed. He stated it is not good to continue dividing our community through communication like this, not when he has an open and willing door to the citizens and news media. He stated if anyone has a question, do not hesitate to contact him or another staff member to answer a question. He stated on July 11th he sent out an email to staff and directed them to respond to the July 9th editorial which was a series of 25 in depth questions by the editor. (He presented a stack of material to the council and audience). He stated there is no issue with transparency and those articles presented are specific answers to every question that was asked. He looks forward to reading the next editorial that will cover all of those answers in detail. All of this material took eleven days to get this information back and it is roughly 500 pages. These are complex issues and social dilemmas that are very complicated. You cannot give a one line answer to a public question and that is very misleading. He would like to inform the public that this information is available and he is open to questions. He has never rejected a request for public information and he does not intend to start today. He has a statutory obligation to provide that information and he believes in transparency in our government. He stated in a recent editorial there was some innuendo thrown out there that our city council members were abusing their training and travel time. He stated they cut \$10,000 within the city council's budget on training and travel. It is unfair to make this accusation and is unfair to do so without receiving verification. They will continue to face hardship, but this is the time to come together as a community. He takes this very seriously and it is important to keep in mind that divisiveness is not going to be the key, and the lines of communication are open and everyone needs to utilize them.

Bellino-Hall stated she has had similar concerns and some of them have said they were blindsided by this budget. She stated she was aware, but was oblivious. They get all this information every single month. They received a letter from Mr. Long dated January 31, 2013 and he was already on board with the problems they were facing. She stated she sent this letter to the city editor. (She read excerpts from this letter). She stated these issues were addressed back in January. She stated they have someone here that she finally feels has this city in focus and is working for this city.

The Mayor and Council convened in executive session at 6:51 p.m. and reconvened in regular, open session at 7:45 p.m. Roll call reflected all members present.

BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

23. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending case in Comanche County District Court of Houston Recyclers, Inc. dba American Recyclers vs. City of Lawton, CJ-2013-496, and if necessary, take appropriate action in open session. Exhibits: None

Jensen read the title of item #23. No action was needed.

24. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending case in Comanche County District Court of Kerry Fryer-Price vs. City of Lawton, CJ-2012-278, and if necessary, take appropriate action in open session.

Jensen read the title of item #24.

MOVED by Wells SECOND by Haywood to appoint Councilman Richard Zarle to attend the settlement conference schedule on August 13, 2013 as a representative of the city council in the case of Kerry Fryer-Price vs. City of Lawton, CJ-2012-278. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

25. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending lawsuit of Ronald Smith Sr. and Robert Puccino Jr., and if necessary, take appropriate action in open session. Exhibits: None

Jensen read the title of item #25.

MOVED by Jackson SECOND by Wells to approve the retainer agreement with Victor Albert of the law firm Connor and Winters for representation of the current and former city employees named in their individual capacity in the pending lawsuit of Robert Puccino Jr. and Ronald Smith Sr. versus the City of Lawton et al and authorize the Mayor and City Clerk to execute the agreement. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

26. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the promotion of the Finance Director's Administrative Assistant to Financial Specialist with a specific portion of the new position's duties to support the Lawton Downtown Redevelopment Project and reimbursement to the City by the Lawton Economic Development Authority for the performance of such duties, and in open session take action as necessary. Exhibits: None

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

There being no further business to consider, the meeting adjourned at 7:49 p.m. upon motion, second and roll call vote.

FRED L. FITCH, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK