

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
AUGUST 12, 2014 – 6:00 P.M.
NEW CITY HALL
COUNCIL CHAMBERS/AUDITORIUM

Fred L. Fitch, Mayor
Presiding

Also Present:
Bryan Long, City Manager
Frank V. Jensen, City Attorney
Traci Hushbeck, City Clerk
COL Glen A. 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 Greg Baxter, Faith Journey Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT: Bob Morford, Ward One
 Keith Jackson, Ward Two
 Rosemary Bellino-Hall, Ward Three (arrived @ 6:18 p.m.)
 Jay Burk, Ward Four (arrived @ 6:10 p.m.)
 Dwight Tanner, Jr., Ward Five
 Richard Zarle, Ward Six
 Stanley Haywood, Ward Seven
 Doug Wells, Ward Eight

ABSENT: None

AUDIENCE PARTICIPATION:

Mary Jean Zeller, 5108 SW New Hope Road, Geronimo, stated she is concerned about Sheridan Road south to Tinney Road. It had been grown over with weeds but today the city mowed it. She stated she has property at 315 Gore and this was a home that her grandfather built and the City of Lawton has harassed her family about this home which needed repairs and her mother tore it down. She is getting all these letters and at one time she had several cars parked on her property and she didn't own them and didn't even know they were there. She stated she is in favor of the veterinary office going in on Gore.

Mayor Fitch stated he has been informed of these issues and the Neighborhood Services Supervisor and the Assistant City Manager will be addressing these issues tomorrow.

CONSENT AGENDA

Mayor Fitch stated Mr. Burt would like to speak on his claim on item #2. He stated the City Manager would like to speak about item #7.

Morford requested item #11 be stricken off the agenda and item #20 be addressed separately.

MOVED by Jackson SECOND by Morford to approve the consent agenda with the exception of items #2 (Burt Claim), #7, #11 and #20. AYE: Morford, Jackson, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for approval: Michael and Laura Boyd in the amount of \$343.75, Michael and Cindy Chronister in the amount of \$184.85 and Bryan and Ashley Goode through their attorney, Eric Cotton, in the reduced amount of \$5,268.07 (**Res. 14-98**). Exhibits: Legal Opinions/Recommendations and Resolution No. 14-____.
2. Consider the following damage claims recommended for denial: Roy and Debi Burt in the amount of \$810.09 and Peter and Beryl Bailey in the amount of \$1,171.44. Exhibits: Legal Opinions/Recommendations.

Kelea Fisher, Assistant City Attorney, stated the claim was filed regarding a search warrant that was executed by the Lawton Police Department Special Operations Division on April 29, 2014. Mr. Burt's tenant was distributing drugs from the home. They did find drugs in the home on that day. They did damage the door frame when they entered the residence. It is her position that the police officers followed state statute and their policy in executing this warrant. They did knock and announce their presence and did wait approximately 30 seconds before entering the residence and executing the warrant. In her memorandum she did cite two exemptions in state statute that provides that the city would not be liable when executing or enforcing the lawful orders of any court, which in this case was the search warrant. They were authorized to enter that home on that search warrant issued by a Comanche County judge. She stated Lt. Dave Williams is in attendance from the Lawton Police Department Special Operations Division, who was the supervisor on the scene that evening.

Jackson questioned if we ever reimbursed anyone for this type of damage.

Fisher stated she would recommend approval if the officers were negligent or if they failed to follow policy. In this case they did follow policy and they did not violate any rights.

Jackson questioned if there was anything in state statute with regards to recovering damages.

Fisher stated not that she knew of. There is a statute that allows a police officer to break open a window or door to execute the warrant.

Wells stated according to the memorandum from the city attorney there was a female that exited the residence and got into her vehicle. He questioned why the warrant was not served at that time without waiting to break down the door. It goes on to say they made contact with the lady a few blocks away. Why didn't they just ask her to let them in the house?

Lt. Dave Williams, Lawton Police Department Special Operations Division, stated that is an issue of officer safety and also the safety of the woman at the house. He stated they knew there were weapons in the house and they did not want to put her in harms way so they chose to keep her a safe distance from the house and they did not want to put an innocent civilian in front of the door when they are executing a search warrant.

Wells questioned if there were weapons found in the house.

Lt. Williams stated there were weapons and ammunition recovered out of the home along with several items indicating that the resident was dealing and trafficking marijuana.

Zarle questioned how many citations were issued in the bust.

Lt. Williams stated no citations were issued at that time. This is part of an ongoing investigation and for them to issue citations at that time would have hindered the investigation. They are holding charges at this point.

Roy Burt, claimant, stated the only thing that concerned him is the way they went into the house. They came through the hinged side of the door when there was no bolt lock and they could have forced it open with their hips. There were no charges filed and there was \$10 worth of marijuana found. There was also a lot of damage to the wall inside.

Jackson stated he hoped Mr. Burt is billing the tenant for all this damage.

Mr. Burt stated he had thought of that, but has not billed his tenant.

Tanner stated the officer said the charges were pending and they had good reason to execute the search warrant. He feels that the tenants are ultimately responsible for the damages. Tanner questioned what would happen if they did not accept responsibility but helped these folks out.

Jensen stated you cannot help them out without having a finding or determination by the council that the officers were somehow negligent. If you pay a claim where there is no basis for negligence, that exposes you to personal liability. He requested that Lt. Williams respond the Mr. Burt's claim that they only found \$10 worth of marijuana.

Lt. Williams stated there was more than \$10 worth of marijuana found in the home and they did find firearms and the tenant was a former felon. There was a log book indicating he was in the business of selling marijuana.

Tanner questioned if there was any type of relief fund they could set up to help folks out that have these types of issues.

Mayor Fitch stated there is nothing they can do in this case. This situation is really a civil matter between Mr. Burt and his tenant.

MOVED by Morford SECOND by Haywood to deny the claim of Roy and Debi Burt in the amount of \$810.09 AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

3. Consider adopting a resolution approving the compromise settlement and making payment in the workers' compensation claim of Raymond Armstrong. Exhibits: **Resolution No. 14-99.**
4. Consider approving support for participation, in partnership with the Comanche County Emergency Management Office, in the application of a grant from the FEMA Hazard Mitigation Grant Program City of Lawton Individual Safe Room (ISR) Rebate Program for the provision of reimbursements for the construction of safe rooms for the citizens of Lawton. Exhibits: Letter or Support. Grant application is on file in the City Clerk's office.
5. Consider approving a resolution amending Resolution 74-119, which created the City of Lawton License and Permit Cash Fund, by authorizing City Manager to transfer up to 33% of available funds (cash minus encumbrances, warrants and payables) from the License and Permit Cash Fund to the General Fund at the end of each fiscal year in order to fund general operations and establishing an effective date. Exhibits: **Resolution No. 14-100** and Resolution 74-119
6. Consider approving a resolution repealing Resolution 93-116, Resolution 00-111 and Resolution 05-06, which created certain City of Lawton funds that are no longer needed, authorizing the transfer of the fund balances, and establishing an effective date. Exhibits: **Resolution No. 14-101**; Resolution 93-116; Resolution 00-111; and Resolution 05-06.
7. Consider acceptance of donations from local organizations and businesses to be designated for the Lawton July 4th Celebration to be held each year. Exhibits: None.

Mayor Fitch stated that there is already a committee formed with Councilmembers Wells, Jackson and Bellino-Hall.

Long stated they didn't have the official committee put together and he just wanted to get acknowledgment from the council that they will move forward.

Jackson stated they have had one meeting that went very well. They have received a lot of response from the business community and others in the area and a lot of good things are coming together. There will be another meeting on August 27th.

Mayor Fitch questioned what they will do if the cost of the event is greater than the monies raised.

Jackson stated they are doing well with the fundraising and that is the reason they want to start this early. They just wanted to get this set up so they can accept funds.

Burk suggested they find a non-profit that will allow people to donate and write it off as a donation. He suggested they utilize Lawton Enhancement Trust Authority.

Jackson stated that is a great idea.

Brooks Mitchell, Finance Director, stated that the Lawton Enhancement Trust Authority is already set up as a 501.c3 organization, so they already have the vehicle in place.

MOVED by Burk SECOND by Tanner to approve the acceptance of donations from local organizations and businesses to Lawton Enhancement Trust Authority for designation for the Lawton July 4th Celebration to be held each year and the acceptance of the committee as now formed. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

8. Consider accepting Fiscal Year 2014-2015 grant renewal from Oklahoma Department of Human Services Aging Services (OKDHS AS) for Retired Senior Volunteer Program (RSVP). Exhibits: OKDHS ASD grant contract is on file in City Clerk's office.
9. Consider approving contract with Journey Productions for technical support services for the 2014 International Festival for September 22 - 30, 2014. Exhibits: Contract on file in City Clerk's office.
10. Consider accepting as a donation the "Lawton Rangers" park bench to be placed in Elmer Thomas Park in honor of the Lawton Rangers Organization. Exhibits: Photo of park bench.
11. Consider repealing the Resolution adopted November 25, 1969, which placed responsibility and management of the Lawton Fine Arts Collection with the Lawton Arts and Humanities Council, thereby returning responsibility and management of the Lawton Fine Arts Collection to the City of Lawton. Exhibits: Resolution No. 14-__; November 25, 1969 Resolution. **STRICKEN**
12. Consider approving contracts with Carl Finch (Brave Combo), Red 11 Music (Dirty River Boys), Matt Stansberry (Matt Stansberry & the Romance) and David Gish (David Entertains) performers at the 2014 International Festival and authorize the Mayor and City Clerk to execute the agreements. Exhibits: Contracts on file in City Clerk's office.
13. Consider approving Agreement for Limited Services with the Museum of the Great Plains. Exhibits: Agreement for Limited Services.
14. Consider approving an agreement between the Lawton Evening Optimist Soccer Association (LEOSA) and the City of Lawton for the cooperative effort to make a first-class soccer complex available to the citizens of Lawton and promote youth soccer in Southwest Oklahoma. Exhibits: Law ton Evening Optimist Soccer Association contract.

15. 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, 2014-June 30, 2015. Exhibits: Novalco, Inc. Service/Maintenance Agreement
16. Consider approving the request for a subordination agreement on the City's mortgage with Karen K. Oligher (Borrower) for the property at 733 NW 17th Street. Exhibits: Exhibit A: Letter of Request; Exhibit B: Mortgage - City of Lawton; Exhibit C: Subordination Agreement. (Exhibits A through C are available for review on in the City Clerk's Office).
17. Consider setting the date of September 23, 2014, to hold a public hearing to close the 10 foot wide platted utility easements shown on the Stephens Addition plat on Lots 1-3, 32-33, the east 80 feet of Lots 27-28 and the east half of Lot 31, all in Block 1, and a portion of the blanket easement recorded in Book 104 Page 35 covering the same lots located at the northwest corner of NW Sheridan Road and NW Cache Road. Exhibits: Application, Location Map and Council Policy 5-1.
18. Consider accepting the maintenance bond, waterlines, and sanitary sewer lines to serve Lawton Town Center development located at NW 2nd Street and West Gore Boulevard. Exhibits: Location Map. Maintenance Bond on file in City Clerk's Office.
19. Consider approving plans and specifications for the Bicycle & Pedestrian Facilities Phase II, Routes 1, 2, 3 & 4 Project 2010-7, ODOT Project STP-116E(184)EH, J/P 26901(04) and authorizing staff to advertise for bids. Exhibits: Route Map.
20. Consider adopting a resolution to approve Supplemental and Modification Agreement No. 1 for Federal-Aid Project Number STP-116E(184)EH, State Job Piece Number 26901(04) between the City of Lawton and the Oklahoma Department of Transportation for the Bicycle and Pedestrian Plan, Phase II, and authorize the Mayor and City Clerk to execute the same. Exhibits: Resolution No. 14-__, Letter from ODOT, Supplemental and Modification Agreement No. 1 and Transportation Enhancement Project Agreement.

Richard Rogalski, Community Services Director, stated this is approving an agreement with ODOT for the remaining funding and the Transportation Enhancement Grant. (He presented a slide displaying routes). He stated item #19 was to accept the plans and send this project out for bid. He recently heard that ODOT has approved the next phase of funding from the TE grant but we don't have the agreement in front of us yet. It is a slow process but we are getting it going. The engineering division spent a tremendous amount of work getting these plans together and with federal funding it is a timely process.

MOVED by Wells SECOND by Burk to approve **Resolution 14-102** approving Supplemental and Modification Agreement No. 1 for Federal-Aid Project Number STP-116E(184)EH, State

Job Piece Number 26901(04) between the City of Lawton and the Oklahoma Department of Transportation for the Bicycle and Pedestrian Plan, Phase II,. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

21. Consider accepting bids and awarding a construction contract to Power Lift Foundation Repair for the Foundation Repair City Hall, McMahon Auditorium & City Hall Annex Project #2014-07. Exhibits: A copy of the agreement is on file in the City Clerk's office.
22. Consider approving plans and specifications for the construction of the Landfill Equipment Maintenance Building Project No. 2008-06 and authorizing staff to advertise for bids. Exhibits: Plans and Specifications are on file at the City Engineers Office.
23. Consider awarding contract (CL14-050) Alternate Daily Cover (ADC) to LSC Environmental Products, LLC of Apalachin, NY. Exhibits: Department Recommendation, Abstract of Bids, Price Sheet.
24. Consider extending contract (RFPCL13-044) Annual Audit – City Employee Retirement Fund to Finley & Cook, PLLC of Shawnee, OK for an additional year. Exhibits: Department recommendation, Contract Extension Form, Price Sheet.
25. Consider extending contract (CL13-008) Cement Kiln Dust to Silver Star Construction Co. Inc. of Moore, OK until the end of this calendar year. Exhibits: Department recommendation, Contract Extension Form, Price Sheet.
26. Consider awarding contract (RFPCL14-055) Emergency Generator Maintenance to Elite Power Services Inc. of Edmond, OK. Exhibits: Department Recommendation, Abstract of Bids, Price Sheet.
27. Consider extending contract (CL13-009) Sodium Hypochlorite to FSTI, Inc. of Austin, TX for an additional year. Exhibits: Department recommendation, Contract Extension Form, Price Sheet.
28. Consider approval of payroll for the period of July 21- August 3, 2014.

NEW BUSINESS ITEMS:

Mayor Fitch stated they need to address items #33 and #34 first because there are staff members that need to leave for Dallas tonight.

33. Consider adopting an ordinance amending Section 10-1-101, Article 10-1, Chapter 10, Lawton City Code, 2005, by authorizing the use of purchasing cooperatives in certain circumstances for the purchase of budgeted supplies, materials, equipment and services, provided the purchasing cooperative utilizes a competitive procurement process for the selection of eligible vendors, providing for severability and establishing an effective date. Exhibits: Ordinance No. 14-__.

Brooks Mitchell, Finance Director, stated the reason for pursuing this was because of the issue with the bids with the fire engines the last time and this is an effort to be able to speed up the process to purchase fire engines by using this purchasing cooperative where they have already done a lot of the pre-bid work and the specs which would normally be done by our staff. They have worked with legal and the fire department staff to bring this before council.

Wells stated he would like a stipulation that local vendors will always be able to bid on those things that they have the ability to supply.

Mitchell stated absolutely.

Mayor Fitch stated that was discussed very thoroughly in staff meeting and that was the recommendation from staff.

MOVED by Wells SECOND by Morford to adopt **Ordinance 14-23**, waive the reading of the ordinance, read the title only and establishing an effective date. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 14-23

An ordinance pertaining to city contracts and sales amending Section 10-1-101, Article 10-1, Chapter 10, Lawton City Code, 2005, by authorizing the use of purchasing cooperatives in certain circumstances for the purchase of budgeted supplies, materials, equipment and services, provided the purchasing cooperative utilizes a competitive procurement process for the selection of eligible vendors, providing for severability, and establishing an effective date.

- 34 Consider adopting a resolution approving an interlocal participation agreement for cooperative purchasing by and between The National Purchasing Cooperative (a/k/a “BuyBoard”) and the City of Lawton, and authorize the Mayor and City Clerk to execute the resolution and agreement. Exhibits: Resolution No. 14-__, Buy Board National Purchasing Cooperative Interlocal Participation Agreement and Information Sheet titled “What is the BuyBoard?”

Tim Wilson, Deputy City Attorney, stated the council just voted on the ordinance to amend city code to allow the city to enter into cooperative agreements and what is before the council is a proposed resolution with an agreement attached for a specific cooperative agreement with BuyBoard. He stated Dave Ricketts from BuyBoard is in attendance. He stated BuyBoard is a very broad group that allows different companies to apply to become vendors. Nothing will prohibit local vendors from becoming a member of BuyBoard.

Morford questioned if staff will prepare specifications like they do now for each item that we buy. He questioned if people in Lawton and around the state still get to bid.

Dave Ricketts, representative from BuyBoard, stated this is very commodity driven so it is anything from Staples office supplies to John Deere mowers. With something specific like a fire truck, those base models are substantially reduced lowering the overall cost. The fire chiefs

would work with those vendors specific to their needs and build a fire truck from the ground up based on the contract and the pricing associated with it.

Tanner questioned if this will save the city money and possibly conflict as far as bid rigging, which was one of the accusations when we purchased fire apparatus a few months ago.

Wilson stated there was no bid rigging, it was a legitimate process. There is no cost to be a member of BuyBoard. If a bid has to be done under the competitive bidding act there are certain bids where you have to follow state law and we are going to continue to do that and follow Oklahoma law. For items that fall outside the competitive bidding act, it can save the city money because BuyBoard has already done the competitive bidding process and that will save us time. Potentially we can get the items faster.

Mayor Fitch stated this will give us another source of a better buying opportunity. You can go through the state bid and other agencies and this will give us another opportunity to have a source for supplies and materials when one buying group can get it a little cheaper than another buying group.

Wells stated this should save us money because buying in bulk, they are getting us better prices than we can get ourselves.

Mr. Ricketts stated it is free to join for the members, but for the vendors to put something on the shelves they are charged a certain fee. He stated this is non-profit and there is a 2% fee charged to the vendors anytime anyone uses it excluding fire trucks and there is a flat fee for that. It is here to support cities, counties and schools. The 2% fee goes to cover the cost of the administration of the contracting process and what is left over goes right back to public education in the state that it was derived from.

Jackson stated when an item is presented to the council for purchase, he questioned if all requests will be forwarded, not just BuyBoard bids.

Mitchell stated the procedure will be the same, BuyBoard is just a membership.

Jackson stated just because a vendor is not a member of BuyBoard they will still have the opportunity to bid on items.

Mitchell stated yes, items will still be sent out for bid.

Bellino-Hall questioned if BuyBoard was a nationwide company.

Mr. Ricketts stated it is a non profit run by the national school board association. They are in 37 different states. The state sponsor in this case is the Oklahoma State School Board Association.

Long questioned if we were able to pull contracts that BuyBoard has written to use for our own exclusive purposes.

Mr. Ricketts stated all the contracts are available for viewing. There is no information you can't have and he is here to be your advocate. He will work with departments on the process to help procure whatever they need.

Bellino-Hall questioned how they determine the 2% fee for the vendor.

Mr. Ricketts stated it is based on the members purchase. The vendors 2% fee is incorporated into the competitive bid process already, it is not an additional charge.

MOVED by Wells **SECOND** by Tanner, to adopt **Resolution 14-103** approving an interlocal participation agreement for cooperative purchasing by and between The National Purchasing Cooperative (a/k/a "BuyBoard") and the City of Lawton. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

29. Hold a public hearing and adopt a resolution declaring the structures located at: 705 S.W. "H" Avenue (Tract 1), 705 S.W. "H" Avenue (Tract 2), 1501 S.W. "E" Avenue (**STRICKEN**), 1735 N.W. Ferris Avenue (**STRICKEN**), and Cor. Of SW 4th Street & Lee Blvd to be dilapidated pursuant to Lawton City Code 6-5-1, ordering the owner(s) to abate the nuisance, authorizing summary abatement, and authorizing the City Attorney to commence legal action in district court to abate the nuisance. Exhibits: Five Resolutions and Exhibits A.

Anthony Griffith, Neighborhood Services Supervisor, reported that his office had projected to bring ten structures before the city council tonight and six of the property owners have volunteered to demolish the structures.

705 S.W. "H" Avenue (Tract 1)

Griffith reported there are three properties with this postal address. The numerous violations of city code existing on the property are documented on the Property Maintenance Evaluation Sheet. He stated the property has been without utilities since 2005. Griffith presented photographs of the property

Morford stated the house next door has the same address.

Griffith stated this is one building lot with a postal address and there are three separate owners. This one is on the SW side of the property. The house on the east was recently purchased at the county sale and the new owner has pulled a remodeling permit.

Jackson stated this home has been a real problem for the neighborhood.

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

MOVED by Haywood **SECOND** by Zarle, to adopt **Resolution 14-104** declaring the structure located at 705 S.W. "H" Avenue (Tract 1) to be a dilapidated public nuisance. AYE: Morford,

Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

705 S.W. “H” Avenue (Tract 2)

Griffith reported the numerous violations of city code existing on the property are documented on the Property Maintenance Evaluation Sheet. He stated the property has been without utilities since April 2005. Griffith presented photographs of the property.

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

MOVED by Haywood SECOND by Zarle, to adopt **Resolution 14-105** declaring the structure located at 705 S.W. “H” Avenue (Tract 2) to be a dilapidated public nuisance. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

Cor. Of SW 4th Street & Lee Blvd

Griffith reported the numerous violations of city code existing on the property are documented on the Property Maintenance Evaluation Sheet. He stated the property has been without utilities since February 1986. The property has not been used or maintained for many years. Griffith presented photographs of the property.

Morford stated the asbestos has been removed.

Griffith stated the asbestos was removed from the structure at a cost of \$400,000.

Haywood stated it was done by ASCOG out of Duncan.

PUBLIC HEARING OPENED.

Brady Burr, attorney from Devol & Associates, stated he and his associate Valerie Devol are representing the Kiowa, Comanche and Apache Intertribal Land Use Committee (KCA). He requested additional time to work on a transfer of title for this property. Negotiations are underway with Mercy Real Estate, which is a charitable organization. There are complicated issues that come into play with any type of a transaction involving conveyance of land from Indian tribes, not the least of which is the fact that they need US Congressional authority to be able to pass title of the land. He stated ASCOG came in and removed asbestos from the property and they have almost \$500,000 worth of services. The mortgage is not filed of record but that will have to be paid in order to transfer title to the property. They are proposing the council table any formal and evidentiary finding with regards to dilapidated status of this structure for 60-90 days in order for them to continue pursuing this transaction. It is his understanding that once Mercy takes possession of this property, they will demolish this structure at their own expense.

Haywood questioned if they gave them the 60-90 days, would all the grass and trees be taken care of.

Mr. Burr stated the grass and weeds could be taken care within the 60-90 days.

Haywood stated the parking lot northeast of there also needs to be cut. He questioned if Mercy was going to tear this down.

Mr. Burr stated he cannot speak for Mercy, but it is his understanding that they are going to take it down. They are not going to get any real use out of it if they don't.

Haywood stated the Mattie Beal home is a block away and it is very important to the city of Lawton. This structure has been an eye sore.

Burk questioned who Mercy were.

Mr. Burr stated they are Mercy real estate.

Morford stated it is his understanding that if they go ahead and condemn it, we tear it down and put a lien on their title. If we can guarantee it is gone, then they could pay for the destruction.

Jensen stated we don't necessarily tear it down ourselves, it depends on what the council wants to do and how big the project is. We do small houses and small businesses, but with a project like Midtown Square, the city does not have the money to tear it down. The judge ordered the property owners to tear it down at their expense under his supervision.

Burk stated we have been working on this forever and they got it to where they removed the asbestos and then they were going to rehab it and that never happened. Personally he does not see why we would take it off the D&D list. The people around that area have been punished long enough with this eyesore. Their property value is zero.

Bellino-Hall questioned who owned this Mercy Real Estate, is it an Indian organization?

Ms. Devol stated it is a non-profit and is not Indian owned.

Mayor Fitch questioned if it was part of Mercy hospital.

Ms. Devol stated she did not think so.

Bellino-Hall stated she worked in this hospital when she started here and they have been gone since at least 1985. She stated they should be ashamed and this needs to go.

Mr. Burr stated there are circumstances beyond the control of the KCA, in that they need congressional action to be able to sell this property. He stated if they come back in 90 days and nothing has been done it will be very hard to explain. He can promise that they will take care of the weeds and graffiti, but they can't promise that bulldozers will come in, but they can take care

of the easier fixes so it is not as much as an eyesore while they are trying to push this transaction through. He stated ASCOG does have an interest in this property and he does not know if they were provided notice of this hearing, so he encouraged the council to notify ASCOG to come here and advocate any interest they may have.

Jensen stated staff did contact the attorney for ASCOG today and they did receive notice. They support the action of the council tonight if they decide to condemn the property.

Wells stated he understood that congressional approval was required for trust land, but if it is not trust land, why do they need congressional approval.

Ms. Devol stated the way the KCA bylaws are written, it says that all KCA lands require this congressional approval to be sold, so they would have to get this approval or change the KCA bylaws.

Wells stated since tribes are starting to buy some other land for structures, it would pay to change those bylaws rather than locking yourself into some kind of position.

Ms. Devol stated it would, but in this particular case we are dealing with three tribes, three tribal business committees and a group that has to act together.

Burk stated this is not about the KCA selling the property, it is about us dealing with that old building that has been there for years.

Ms. Devol stated that ASCOG has a promissory note and mortgage against it.

Scott Meadors, Deputy City Attorney, stated the ASCOG mortgage is of record and they were given notice of this hearing and they did contact staff to share their thoughts. He stated he did call their attorney to explain the process that would be undertaken if the property was declared dilapidated. They believe that something needs to be done with the condition of the property. This hearing is about whether or not the condition of the property constitutes a public nuisance today. The mortgage was filed in 2009 in the amount of about \$400,000 and ASCOG is concerned about the condition of the property and they think that we are a more efficient to move on this than the mortgagee. He stated ASCOG does support some action to be taken to address the condition of the property.

Haywood stated we are not going to tear this down in 60-90 days because we don't have the money. He feels that they need to bring it back on that 91st day if nothing is done and go through this process again.

PUBLIC HEARING CLOSED.

MOVED by Haywood, to adopt Resolution 14-106 and allow the owner 95 days to take care of this problem and also clean up the property within 10 days.

Tanner stated he is confused, he thought they were giving them an extension of 90 days before the property is declared dilapidated.

Haywood stated he wants to adopt the resolution and give them 95 days. It will still be on the list to be torn down if they don't do something.

Griffith stated under the current resolution, they do have a total of 90 days. They have 30 days to pull a remodel permit and start the remodeling process and if during that 30 days they show substantial work then they can come back and get a 30 days extension and then during that extension they can receive another 30 day extension.

Wells stated they are not talking about bringing it up to code, they are talking about selling it. He stated Councilmember Haywood is proposing that the council give them 95 days before we take any action with the stipulation that they have ten days to abate the weeds and problems.

Bellino-Hall stated they want to sell it to a non-profit company and she is concerned that it will continue to just sit there.

Mayor Fitch stated it will be on the D&D list.

Tanner questioned what the 95 days accomplished.

Wells stated they want 90 days to complete the sale of the property.

Haywood stated his motion is to approve the resolution and give them 95 days to take care of the paperwork.

Tanner stated if they go ahead and voluntarily comply with demolishing the structure themselves, they will get half off at the dump.

Griffith stated if the KCA were to demolish the structure without the council having to declare it dilapidated, then they are entitled to a 50% discount at the landfill.

Tanner stated that is a substantial amount of money on a structure this size.

Mr. Burr stated they are asking the council to table the issue as to finding this as a dilapidated structure for 90 days and then they will reappear to give the council an update as to what has been done. They will voluntarily agree to abate the weeds and graffiti and do a better job of securing the structure.

Haywood stated he has already made a motion.

MOVED by Haywood SECOND by Wells, to adopt Resolution 14-106 and allow the owner 95 days to take care of this problem and also clean up the property within 10 days.

Mr. Burr questioned if they would have to appear in 30 days to seek an extension or is it good for the entire 90 days.

Wells stated they would be good for 95 days.

Tanner stated he does not understand how the 95 days is benefiting the KCA.

Wells stated the council has given extensions in the past and what happens is they give a 90 day extension and they come back in 90 days and they haven't done anything and they ask for another 90 days and then it is out there two and three years later and it is still not on the D&D list.

Tanner questioned if the KCA is going to be able to take advantage of the 50% discount on the dumping fee.

Mayor Fitch stated no one is here tonight who can answer that.

Jackson stated this is a problem of the city of Lawton citizens and not just Ward 7, and everyone knows it is a hazard and danger to this community. He is on the board of directors of the Mattie Beal home and they have talked about this issue.

Morford stated he is in favor as long as it is on the D&D list.

Jackson stated he is going to make a substitute motion, he does not believe 95 days is ever going to get this community to where it needs to be. He feels they need to leave it on the D&D list for thirty days.

Jensen stated it is not on the list right now. If it is put on the D&D list it will follow the same procedure as every other property.

Jackson stated there are procedures set up once they put it on the D&D list and that is what he wants to do tonight with this substitute motion.

Tanner stated they have already agreed that they want to tear the property down.

Bellino-Hall stated they are going to sell the property to this company and they will let it sit there.

SUBSTITUTE MOTION by Jackson SECOND by Bellino-Hall, to adopt **Resolution 14-106** declaring the structure located at the Corner of SW 4th Street & Lee Blvd to be a dilapidated public nuisance. AYE: Morford, Jackson, Bellino-Hall, Burk, Wells. NAY: Tanner, Zarle, Haywood. MOTION CARRIED.

30. Hold a public hearing and consider a resolution approving Amendment No. 2 to the D-6 Urban Renewal Plan changing Lots 9 – 13, Block 63, North Addition from the Medium Intensity Residential District to the Mixed Use District on the Land Use Map and consider an ordinance amending Sections 18-12-2-1231 and 18-12-4-1252, Chapter 18, Lawton City Code, modifying the boundaries of the Mixed Use District and the Medium Intensity Residential District within the Downtown Lawton Overlay District. Exhibits: Resolution No. 14-____, Proposed D-6 Land Use Map, Ordinance No. 14-____, Proposed Map of Downtown Lawton Overlay District, LURA Minutes and CPC Minutes.

Rogalski stated the D6 Urban Renewal Plan (URP), as amended, was adopted by the City Council on March 14, 2006. The plan is divided into four districts: Medium Intensity Residential, Mixed Use, Commercial Central, and Public. A request was submitted to the Lawton Urban Renewal Authority to change Lots 12 and 13, Block 63, North Addition (309 West Gore Boulevard) from Medium Intensity Residential District to Mixed Use District so that a small animal veterinary clinic could be operated thereon. Currently of the eight lots fronting Gore Boulevard within this block, three are designated as Mixed Use District and the remaining five lots are designated as Medium Intensity Residential. On May 20, 2014, the Lawton Urban Renewal Authority considered the request and adopted a resolution recommending the remaining five lots (Lots 9 – 13, Block 63, North Addition) be changed to Mixed Use District. Chapter 18 of the Lawton City Code includes boundary descriptions of each of the sub-districts of the Downtown Lawton Overlay District, which mirror the land use map of the URP. Therefore, if the D-6 URP is amended, the boundary descriptions in Chapter 18 must also be amended. Letters explaining the requested amendment were sent to three affected property owners on June 18, 2014. The owner of the affected property at the corner of 4th Street and Gore Boulevard (vacant) called the Planning Director and expressed their concurrence with this request. However, the owner of Lot 11 met with the Planning Director and expressed great concern with the proposed use on Lots 12 and 13 (small animal veterinary clinic). Noting that while the change might actually increase the value of his property, he intended to live there and did not want the potential noise or smell that could be associated with the proposed use affecting the enjoyment of his home. At the City Planning Commission meeting, this property owner advised that he had spoken with the veterinarian, Dr. Vicki Wood, and his concerns had been addressed and he was now in favor of the request. On July 10, 2014, the City Planning Commission held a public hearing and adopted a resolution finding this amendment is in conformance with the general plan and recommended approval of the amendment to the D-6 URP and to Chapter 18 of the Lawton City Code.

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

MOVED by Tanner SECOND by Zarle to adopt **Resolution 14-107**. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

MOVED by Tanner SECOND by Zarle to adopt **Ordinance 14-24**, waive the reading of the ordinance, read the title only. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 14-24

An ordinance pertaining to zoning amending Section 18-12-2-1231, Chapter 18, Lawton City Code, 2005, modifying the boundary of the mixed use district of the downtown Lawton overlay district and amending Section 18-12-4-1252, Chapter 18, Lawton City Code, 2005, modifying the boundary of the medium intensity residential district of the downtown Lawton overlay district and providing for severability.

31. Hold a public hearing and consider an ordinance closing the west 110 feet of NW Williams Avenue between Blocks 35 and 36, Military Addition, located on the west side of NW 20th Street between NW Lincoln Avenue and NW Smith Avenue. Exhibits: Ordinance No. 14-__ and Location Map.

Rogalski stated on July 8, 2014, council set a date of August 12, 2014 to hold the public hearing for this proposed closure. The request is to close the west 110 feet of NW Williams Avenue between Blocks 35 and 36, Military Addition, located on the west side of NW 20th Street between NW Lincoln Avenue and NW Smith Avenue. The applicant, Jane Lewis, is the owner of the property surrounding the requested area and has requested to close this portion of NW Williams Avenue because a public street had never been constructed with the right-of-way, it does not extend through to Sheridan Road, and has therefore only been used and maintained as a private access drive. A deed has been provided by Jane Lewis showing all the properties NW Williams Avenue provides access to have been consolidated in one deed never to be separated. The remaining portion of the NW Williams Avenue right-of-way would remain open. Public Works, PSO, and CenterPoint Energy do not have any utilities located within this portion of NW Williams Avenue and do not object to the closing. Notice of public hearing was mailed to 23 property owners within 300 feet of the requested area on July 11, 2014, and notice was published in *The Lawton Constitution* on July 29, 2014. No objections to the closing this portion of NW Williams Avenue have been received by area property owners.

Morford questioned if this goes all the way to Sheridan Road.

Rogalski stated no, when it was originally platted it only went half way. It has been maintained as a private driveway.

Morford stated there are structures on it.

Rogalski stated yes, but those structures are all owned in common so we are not creating any illegality by closing this portion of the right of way. Part of the structure is on the right of way and it will actually clear up a problem

PUBLIC HEARING OPENED.

Rufus Jenkins, 411 Glendale Drive, stated he is concerned that if this gate is closed the sewer truck would not be able to get in to flush his line. He had this problem about six or seven years ago. If this is blocked he will have to hire a private contractor to flush those lines.

Rogalski stated no public utilities are being affected by this.

Tanner stated that Mr. Jenkins is concerned that if his sewer is stopped up he will not be able to clean it out.

Mr. Jenkins stated it is the main.

Jackson stated he feels Mr. Jenkins is confused, but he would like to delay this for two weeks so they can make sure that the main is not back there.

Rogalski stated the City does not have any utilities in this right of way.

Jackson stated there is still some confusion.

Burk stated he would like to go out to the site and see what Mr. Jenkins is talking about.

Ernest Godlove, attorney for the property owner, stated he had no objection to delaying this for two weeks, but after examining the abstract on all the property, there is no public easement for sewer, water or gas.

MOVED by Jackson SECOND by Burk to continue the public hearing to the August 26, 2014 meeting. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

32. Hold a public hearing and discuss a proposed ordinance granting Fidelity Cablevision, Inc. a nonexclusive franchise to provide cable system service to the City of Lawton over the next fifteen (15) years, and provide direction to staff prior to considering final approval of the ordinance at the City Council meeting on August 26, 2014. Exhibits: Proposed Ordinance 2014-_____.

Steven Greb, Assistant City Attorney, stated the existing cable television franchise with Fidelity Cablevision, Inc. (successor to Lawton Cablevision, Inc.) will expire in February 2015. In February of this year staff began a conversation with Alan Holcomb and Jason Ross with Fidelity Cablevision, Inc. to renew the cable franchise ordinance and our agreement. The item tonight is just for discussion and to get input from the public and also input from the council for the ordinance. The ordinance will be on the agenda for approval at the next council meeting. The main part of the ordinance has not change. It is a 15 year term with a 5% franchise fee.

Jensen stated Alan Holcomb, the General Manager from Fidelity is here to make a few comments and to answer any questions.

PUBLIC HEARING OPENED.

Alan Holcomb, General Manager of Fidelity Communications, stated Lawton has a cable company that stacks up to any services in Oklahoma City, Tulsa, Norman, or anywhere in the state. He stated all of the supervisors are in attendance. He stated he would like to entertain any questions or suggestions from the council.

Jackson stated he has met with Mr. Holcomb a couple of times and his concerns have not been addressed. Their public service response is horrible. When he called the 353-2250 line for help today at 3:40 p.m. the call was answered by someone in Missouri at 5:05 p.m. and was told the local office was closed and he would have to wait until tomorrow for help. He stated he wished they would do away with the answering machine so someone could answer locally.

Mr. Holcomb stated they do have things in motion to fix this issue. He stated the solution is not just to throw bodies in there. On September 8th they will be converting to a new software system and they are in the process of training and adding CSR's. When this is done it will alleviate the congestion locally on the phone lines and it will give them a bank of people to answer phones that currently are not available.

Jackson stated with the previous owner, when the calls came down they were answered by the girls in the office and you almost get an immediate response. He stated nothing irritates people more and if it can be addressed, then address it. He is scared to approve this agreement without that in the contract.

Mr. Holcomb stated in the franchise agreement it does refer to the FCC standards for customer service, which they will comply with. He stated 70% of their business is done in ten days of the month and to staff for that is difficult.

Jackson stated all he wants to hear is that they will be fixing this issue.

Mr. Holcomb stated they are fixing this issue.

Tanner stated this service works and is very cost effective.

Mr. Holcomb stated they have saved local businesses thousands of dollars with their competitive prices. He is also proud to say that they track all their service calls and 99% of their business service calls are addressed within 24 hours and 92% are addressed within 2 hours. Residentially, 92% of the service calls are addressed in 24 hours. Their goal is 100% for both. They are having some phone issues and they are addressing them. Once they get the new software program in they should get an additional 12-16 people available to answer calls. Their commitment to Lawton will continue.

Wells stated if you go down and sign up for HD services, with the mini boxes the program guide does not show so you have no way to see what is coming up the next day and the local TV guide only covers your extended basic channels.

Mr. Holcomb they are fixing that guide. The FCC has mandated they be digital across their system and when they started installing they got a lot of complaints about not having the guides, so they are going back and putting the guide in.

Jensen stated no motion is needed tonight, it was a discussion item and public hearing. Staff will bring back the ordinance on August 26th and if the council has any direction on changing the provisions they will take those comments now, otherwise the same ordinance will come back for approval.

PUBLIC HEARING CLOSED.

BUDGET REPORT

Brooks Mitchell, Finance Director, reported on the variances between the budget amounts and what has happened historically. He distributed a budget sheet which is on file in the City Clerk's office.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Wells stated he attended the Back to School Bash at the museum which is sponsored by a number of agencies as well as the parks and recreation department. He stated they had 600 pre-enrolled and they had 1,017 backpacks to hand out. He stated it was a great event. He stated he was shocked when he read that a police academy class had graduated. Several council members usually attend those ceremonies and for some reason they were not informed.

Burk stated this Saturday will be the second annual Project X Festival to be held at McMahon Park at 38th and Lee Boulevard from 4:00 p.m. to 10:00 p.m. All the proceeds goes to the building of a new skate park.

Morford stated they all need to take a minute and thank the McMahon Foundation because they have done a lot for us over the past few years.

Mayor Fitch stated that there is a citizen that would like to speak regarding item #35. He questioned if the city council would like to hear what he has to say.

Council agreed.

Al Granger, 4229 SE Ford Road, stated they are in the middle of the 45th Street Project and it will have a serious impact on their home. He is a father of a child with special needs and he and his wife do a lot of work within the community. He stated they have basically been threatened by Pinnacle who has told them that if they do not accept their offer they will take them to court. They have done nothing wrong. He distributed photos of how this will affect their garage. The sidewalk will be within two feet of their front door. He questioned what they should do. They do not want to move because they have 15 years of equity in the house, but they don't want to live with a five lane highway in their front lawn. He fears for his family's safety.

Mayor Fitch stated they will take the photos with them to discuss in executive session.

The Mayor and Council convened in executive session at 8:16 p.m. and reconvened in regular, open session at 9:01 p.m. Roll call reflected all members present with the exception of Morford and Jackson.

EXECUTIVE SESSION ITEM:

35. Pursuant to Section 307B.3, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the proposed purchase of land necessary for the construction of the SE 45th Street Reconstruction Project No. 2006-12; ODOT JP No. 23410(04) on East 45th Street from SE Ellsworth Ave. to NE Bell Ave. and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title to item #35. No action was taken.

36. Pursuant to Section 307B.3, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the proposed purchase of easements necessary for the construction of the Nine Mile Creek Sanitary Sewer Interceptor Construction Project No. 2008-2 and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title to item #36. No action was taken.

There being no further business to consider, the meeting adjourned at 9:02 p.m. upon motion, second and roll call vote.

FRED L. FITCH, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK