

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
DECEMBER 6, 2016 – 6:00 P.M.
LAWTON CITY HALL
COUNCIL CHAMBERS/AUDITORIUM

Fred L. Fitch, Mayor
Presiding

Also Present:
Jerry Ihler, City Manager
Scott Meaders, Deputy City Attorney
Denise Ezell, Sr. Deputy City Clerk
COL Samuel Curtis, Fort Sill Liaison

Mayor Fitch called the meeting to order at 6:03 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Dr. Joe Williams Sr., True Love Apostolic 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
Cherry Phillips, Ward Six
Doug Wells, Ward Eight

ABSENT:

V. Gay McGahee, Ward Seven

PRESENTATION OF JAMES FARRELL AWARD OF EXCELLENCE TO PARKS AND RECREATION STAFF

Mayor Fitch and Jack Hanna, Parks and Recreation Director, recognized Lawton Parks and Recreation staff who received the James Farrell Award of Excellence for a national tournament held in Lawton in July.

Lt. COL Kurt Nielson, Provost Marshall for Fort Sill, reported on the Real ID Act requirements. The implementation date now has been moved to January 30, 2017 for the Real ID to go into effect locally. The senior leadership has approved a list of alternate identification to be taken into conjunction with the Oklahoma drive license or identification card which will satisfy the criteria and allow them to do a background check sufficiently.

AUDIENCE PARTICIPATION: None.

CONSENT AGENDA:

Mayor Fitch stated he does have people who have signed up to speak on item #2. The claims to be discussed will be the Martha Phillips claim and the Madhu and Deena Davis claim.

MOVED by Wells SECOND by Burk to approve the consent agenda with the exception of the Phillips and Dave claims on item #2. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, Wells. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for approval: Tommy and Victoria Jozefkowicz in the reduced amount of \$2,567.71 (**Res. 16-85**) and Chris Oliver and Jessica Craft in the amount of \$2,867.72 (**Res. 16-86**). Exhibits: Legal Opinions/Recommendations , Resolution 16-____ and Resolution 16-____.
2. Consider the following damage claims recommended for denial: Martha Phillips in the amount of \$7,724.24, Madhu and Deena Dave in the amount of \$1,146.00 and Seno Speed in the amount of \$1,500,000.00. Exhibits: Legal Opinions/Recommendations.

Kelea Fisher, Assistant City Attorney, stated there is a claim filed by Ms. Phillips who is the owner of the property located at 320 NE Skyline Circle. The claim is regarding a sewer backup on May 27, 2016 in the amount of \$7,724.24. Staff is recommended denial of the claim. Wastewater Collections shows that on May 27, 2016 the renters at the residence experienced a sewer back up. City crews did find an obstruction in the main and it was cleared. Wastewater Collections show that there was no prior history of any obstruction or defect in the main and segment that services this address. One year ago on May 24, 2015, there was another back up at this address and it was determined that the main was flowing and the issue was with the service line. She called the former renters and they informed Ms. Phillips of the back up in 2015, but to their recollection there was nothing done about it. They informed her that there was another backup between 2015 and 2016 but Ms. Phillips did not call the City. Our records show there was no call between that time so we do not know if it was caused by the main or the service line because we were not given notice. The law does not require the City to become an insurance company for our sanitary sewer systems. The Oklahoma Supreme Court states that if we don't have actual or constructive notice of a defect in our main then we are not liable. She stated there have been issues on NE Skyline and we have paid claims. She called the Wastewater Collections Division and asked how there can be no history on the line when she knew we had paid a claim within the past three years. She spoke with Chris French, the Wastewater Collections Superintendent, and he explained how this could happen.

Chris French, Wastewater Collections Superintendent, displayed a map for the City Council showing the lines in that area. He stated the previous claims that were paid were at 315 and they were only tied together at a small segment and there were no blockages at these segments.

Felicia Godwin, representing Martha Phillips, stated that Ms. Phillips would like the council to reconsider the claim and make this information available to her. As part of the claim process they submitted all their information with the claim and only part of this information was given to them. She stated the initial information that was given to them was that there were no other calls

on this line, but the city attorney just indicated that there was another call on the line in the summer of 2015. She stated they do have proof that her part of the line was checked and cleared. At this point they have never seen any records from the City that they checked their line at this time and they would like to see those records. All they have received from the City is a piece of paper with a single date on it. Ms. Phillips is the kind of property owner that keeps warranties on her sewer line and she did take care of her part of this line and this neighborhood has flooded several times this year. They would like to see the information on prior calls from the wastewater collections division.

Jackson suggested they delay this item until the January council meeting so that Ms. Phillips can get an opportunity to look at the information.

MOVED by Jackson SECOND by Tanner to table to January 10, 2017 meeting. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, Wells. NAY: None. MOTION CARRIED.

Fisher stated there is a claim filed by Madhu and Deena Dave, the owners of the Super 9 Hotel located at 1201 NW Cache Road. They allege that the water distribution division damaged a decorative light pole in the front area of the hotel during a water main repair. Their claim is in the amount of \$1,146.00, which is the amount that Mr. Dave estimates it will cost to repair the light pole. Staff has recommended denial of the claim because there is no evidence to indicate that the city workers actually caused the light pole to tip over. The City workers were out to perform an emergency repair on the water main on August 8, 2016 and they returned on August 10, 2016 to reset the meter. The workers state that the light pole was upright when they completed their work and left the location. Mr. Dave called the city 10 days later to report that the light pole was leaning over and damaged. Mr. Dave did not know when the light pole was actually tipped over. She stated two days prior to Mr. Dave calling the city there was a call to dispatch from this hotel reporting that three individuals were possibly stealing copper. The police reported that one of the individuals was hiding behind this pillar and it is in her opinion that one of these individuals tipped this pole over. The photographs show that the bolts holding the pole in place on the concrete were rusted and aged so it is possible that the pole could be pushed over. There is no evidence to suggest that city workers damaged the pole.

Mayor Fitch questioned if it was a PSO light pole.

Fisher stated it is a decorative light fixture much like you would see in front of a house.

Mike Dave, claimant, stated they have a sixteen light pole in front of their property. When the police called they were in the next block, stealing copper from a pickup truck. The pole has been standing there for 30 years and the main ring is still attached. (Mr. Dave distributed photos). He was out of town and that is why he called a little late.

Burk stated this property has been vacant for some time.

Mr. Dave stated it has been vacant for six months.

Burk stated from the photos, the backhoe is a long way from this light.

Mr. Dave stated that photo is from when they were digging. They came back after three days to put the dirt back and that is when it broke. He called about six people in town to come and repair the pole but he was told that no one has the machinery to fix the aluminum. He stated this has never happened before and it happened because of damage and somehow they don't want to tell the truth. The police report is totally separate and has nothing to do with the light.

Tanner stated from the photos it looks like the city was doing work a few feet of that pole but no one saw them push the pole, but Mr. Dave is assuming that the city workers pushed it over. The city crew said that they didn't do this.

Mayor Fitch stated there would have to be some abrasion on the light pole.

Burk questioned if there was any damage where the back hoe hit that aluminum pole.

Mr. Dave stated the pole is still sitting there and he hasn't noticed anything.

Burk stated if the back hoe hit the pole you would have noticed something. He cannot see where we caused any damage to the pole.

Phillips questioned if the pole was in concrete or dirt.

Mr. Dave stated the base is concrete.

Mayor Fitch stated it is bolted to a concrete pad.

Phillips stated the light pole is raised in the pictures because it shows a ledge.

Wells stated it is higher than where they were digging.

MOVED by Burk SECOND by Morford to deny the claim of Madhu and Deena Dave in the amount of \$1,146.00. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, Wells. NAY: None. MOTION CARRIED.

3. Consider approving funding in the amount of \$12,500 for the 2017 SW Alliance Youth Basketball Tournament to be paid directly to the Lawton Public Schools, Cameron University and the Great Plains Coliseum for facility rental. Exhibits: None.
4. Consider setting the date of January 10, 2017, to hold a public hearing to close the 20-foot alley in Block 64, of North Addition, located between NW 2nd Street and NW 3rd Street, behind Nissan of Lawton addressed as 201 W Gore Boulevard. Exhibits: Application and Location Map.
5. Consider approving the construction plans for a 12-inch waterline and an 8-inch sanitary sewer line to serve Acord Transportation located on Lot 3, Block 3, of Lawton Industrial Park, Part 2, subject to conditions. Exhibits: Location Map.

6. Consider accepting a warranty deed for the access drive located to the south of the E911 and Emergency Operations Center located on the Great Plains Technology Center School property located at 4500 SW Lee Boulevard. Exhibits: Location Map and Warranty Deed.
7. Consider awarding (RFPCL17-004) Maintenance of Public Grounds to Bedrock Nursery of Lawton, OK. Exhibits: Department Recommendation, Narrative Summary and Exhibit “C” the Unit Price Comparison.
8. Consider approval of payroll for the period of November 22 – December 5, 2016.

NEW BUSINESS ITEMS:

9. Consider an ordinance pertaining to Refuse Fees and Charges amending Section 22-1-4-144, Division 22-1-4, Article 22-1, Chapter 22, Lawton City Code 2015, by defining a large-volume customer and authorizing a reduced landfill fee for the same, providing for severability and establishing an effective date. Exhibits: Ordinance 16-__.

Burk stated in this past budget they raised utility rates for our large haulers that haul into our landfill. He stated in his business, the more he purchases the more discount he receives. Some of the big haulers have to pay the same rate as someone dumping once a year. He stated this ordinance will help some of these large haulers that are providing huge amounts of revenue to the city and give them a reduced rate depending on tonnage. He met with staff about those that have anything above 2,000 tons per month and they would get a reduced rate. We have one hauler now and a couple that may qualify in the future. He stated we did hit them with a huge increase and for someone doing 2,000 plus tons per month that brings in over a million dollars in revenue.

Mayor Fitch stated we found with that kind of volume it does open up opportunities to dispose elsewhere.

Wells stated they will still be paying about a \$5 increase over what they were last year.

Tanner stated there is competition out there and for some of these big haulers it might be more feasible for them to go to Wichita Falls. He feels they need to lower this and help the local haulers.

MOVED by Burk SECOND by Jackson to adopt **Ordinance 16-33**, waive the reading of the ordinance, read the title only and establishing as effective date. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, Wells. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 16-33

An ordinance pertaining to refuse fees and charges amending Section 22-1-4-144, Division 22-1-4, Article 22-1, Chapter 22, Lawton City Code 2015, by defining a large-volume customer and

authorizing a reduced landfill fee for the same, providing for severability and establishing as effective date.

10. Consider approving a resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 2015, to establish a reduced fee for large-volume landfill customers, and establishing an effective date. Exhibits: Resolution 16-__.

MOVED by Burk SECOND by Phillips to adopt **Resolution 16-87**. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, Wells. NAY: None. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Wells encouraged citizens to support local businesses because when you shop over the internet the sales tax does not come here and that affects our budget. He reminded citizens to test their smoke alarms and watch their pipes during the cold weather.

Phillips recognized the Chamber for their Lawton Proud campaign.

Tanner stated he attended the RSVP banquet celebrating the local veteran volunteers.

Burk congratulated the Lawton High Wolverines for making it to the state finals in football. He stated McArthur High School made it to the semi-finals. Keeping kids on teams keeps them off the streets.

Jackson stated the city council works long hours developing policy for this city. He believes that we have the best staff, administration and department heads that we have ever had. They do a magnificent job. He commended the Chamber on the Lawton Proud campaign and their economic development and tourism division. He is so excited about the future of Lawton and there are millions of dollars' worth of projects in the pipeline to be done to improve our city. He encouraged everyone to vote on February 14th for the streets and roads bond issue.

Ihler reminded everyone of the special council meeting on Friday at 2 p.m. to discuss the OpTerra project and to prioritize the street projects.

There being no further business to consider, the meeting adjourned at 7:00 p.m. upon motion, second and roll call vote.

FRED L. FITCH, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK