

MINUTES  
LAWTON CITY COUNCIL REGULAR MEETING  
MARCH 13, 2012 – 6:00 P.M.  
NEW CITY HALL  
COUNCIL CHAMBERS/AUDITORIUM

Mayor Fred L. Fitch  
Presiding

Also Present:  
Larry Mitchell, City Manager  
Frank V. Jensen, City Attorney  
Traci Hushbeck, City Clerk

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 Rodger Schwenn, Sullivan Village Church of Christ, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:

Bill Shoemate, Ward One  
Michael Tennis, Ward Two  
Rosemary Bellino-Hall, Ward Three  
Jay Burk, Ward Four  
George Moses, Ward Five  
Richard Zarle, Ward Six  
Stanley Haywood, Ward Seven  
Doug Wells, Ward Eight

ABSENT:

None

PROCLAMATION FOR WOMEN'S HISTORY MONTH

Mayor Fitch proclaimed the month of March 2012 as Women's History Month and presented the proclamation to members of the Mayor's Commission on the Status of Women.

Karen Woodward, Chairman, stated the Commission will host the Outstanding Woman of the Year event on April 5, 2012 at City Hall.

CONDUCT ELECTION OF MAYOR PRO TEM

MOVED by Tennis SECOND by Burk to nominate Doug Wells to serve as Mayor Pro Tem.  
AYE: Tennis, Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells, Shoemate. NAY: None.  
MOTION CARRIED.

AUDIENCE PARTICIPATION: None.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF FEBRUARY 28, 2012 AND THE SPECIAL MEETING OF MARCH 5, 2012.

MOVED by Burk SECOND by Tennis to approve the minutes of Lawton City Council regular meeting of February 28 and the special meeting of March 5, 2012. AYE: Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells, Shoemate, Tennis. NAY: None. MOTION CARRIED.

Mayor Fitch recognized members from Boy Scout Troop #128 who are working on their community service award merit badges.

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 #1 will be stricken from the agenda and item #8 will be considered separately because there is a conflict of interest with Councilmember Moses.

MOVED by Burk SECOND by Wells to approve the consent agenda with the exception of items #1 and #8. AYE: Burk, Moses, Zarle, Haywood, Wells, Shoemate, Tennis, Bellino-Hall. NAY: None. MOTION CARRIED.

1. Consider the following damage claim recommended for approval: Union Baptist Church in the amount of \$568.00. Exhibits: Resolution 12-\_\_\_, Legal Opinion/Recommendation. **THIS ITEM WAS STRICKEN FROM THE AGENDA.**
2. Consider the following damage claims recommended for denial: Nassaney Co., LLC in the amount of \$16,285.08 and Richard Dobkins and Barbara Cohrs-Dobkins in the amount of \$10,000.00. Exhibits: Legal Opinions/Recommendations.
3. Consider adopting a resolution approving payment on the judgment in the Workers' Compensation case of Laverne Aitson Jr. in the Workers' Compensation Court, Case No. 2010-13730F. Exhibits: **Resolution No. 12-26.**
4. Consider adopting a resolution approving the compromise settlement and making payment in the workers' compensation claim of William Brown. Exhibits: **Resolution No. 12-27.**
5. Consider approving an Agreement for Professional Services between James W. Hoyt, MAI and the City of Lawton to appraise property for a current condemnation action, Comanche County District Court Case CJ-2011-198, City of Lawton vs. Dennis and Mary Lou Merrifield, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Agreement between James W. Hoyt, MAI and City of Lawton.
6. Consider authorizing the City Attorney to pursue litigation on certain debts owed to the City on a promissory note and outstanding utility bill by filing a small claims law suit, in the Comanche County District Court to be styled City of Lawton v. Laura L. Tucker. Exhibits: None.

7. Consider acknowledging receipt of a Tier I permit from the Oklahoma Department of Environmental Quality for the construction of 55 linear feet of 8-inch waterline, and all appurtenances to serve Jim Norton Toyota Pre-Owned Automobile Dealership located at 7202 NW Quannah Parker Trailway in the SE/4 of Section 20, T2N, R12W, I.M., Comanche County, Oklahoma. Exhibits: Permit to Construct on file in the City Clerk's Office.
8. Consider releasing the performance bond for drainage improvements, and accepting the water, sewer and drainage improvements, maintenance bonds and escrow agreement in lieu of minor incomplete improvements, and resume the issuance of building permits within Scissortail, Part 1. Exhibits: Plat Map. Maintenance Bonds and Escrow Agreement are on file in the City Clerk's Office.

Richard Rogalski, Community Services Director, stated there have been several discussions regarding this project. He stated everything is done other than a small bond for minor incomplete improvements that has to do with painting fire hydrants, grassing and a little fill work, but they are all very minor items. He stated staff is recommending approval at this time.

Wells stated if they approve this tonight he would hope that staff stays on top of this and if the developer does not take care of these improvements, we will take some kind of action.

Rogalski stated there is an escrow in the amount of \$2,200 for these minor items. The developer has 90 days to get them done and if he does not, we can either extend for another 90 days or pull the escrow and make the improvements.

Wells suggested we not extend again.

MOVED by Wells SECOND by Burk to release the performance bond for drainage improvements, and accept the water, sewer and drainage improvements, maintenance bonds and escrow agreement in lieu of minor incomplete improvements, and resume the issuance of building permits within Scissortail, Part 1. AYE: Haywood, Wells, Shoemate, Tennis, Bellino-Hall, Burk. NAY: Zarle. ABSTAIN: Moses. MOTION CARRIED.

9. Consider accepting a temporary easement from O. Pok Lawley for right of way needed for the SW 2<sup>nd</sup> Street Enhancement Phs IV Project #2011-4, authorizing the Mayor and City Clerk to execute the document. Exhibits: Temporary easement is on file in the City Clerk's office.
10. Consider adopting a Resolution authorizing the installation of traffic control measures on: eastbound and westbound NW Meadowbrook Drive at the intersection of NW 40<sup>th</sup> Street. Exhibits: **Resolution No. 12-28**, Traffic Commission Minutes and Traffic Issue Requests.
11. Consider terminating the Non Exclusive Recycle Center Operations Agreement with Inland Service Corporation effective June 30, 2012 and authorize staff to send out a new RFP (Request for Proposals) for advertisement of a new agreement. Exhibits: Inland

Service Corporation letter dated February 16, 2012. RFP is on file in the Public Works Administration Office.

12. Consider awarding contract (CL12-027) Tire Recapping to Southern Tire Mart of Ardmore, OK. Exhibits: Department recommendation, abstract of bids, price sheet.
13. Consider awarding contract (CL12-026) Sludge Dewatering Polymer to Polydyne Inc. of Riceboro, GA. Exhibits: Department recommendation, abstract of bids, price sheet.
14. Consider extending contract (CL10-032) Nuisance Abatement - East Side to JM Lawn Services of Lawton, OK. Exhibits: Department recommendation, Contract Extension Form, Price sheet.
15. Consider extending contract (CL10-038) Topsoil-Yard pick-up to Beaver Creek Tractor Service of Cache, OK. Exhibits: Department recommendation, Contract Extension Form, Price sheet.
16. Consider extending (RFPCL10-034) Health (Medical) Dental/Pharmacy and COBRA Network and Administration Services RFP to Blue Cross/Blue Shield of Oklahoma. Exhibits: Department recommendation, contract extension form.
17. Consider approving appointments to boards and commissions. Exhibits: None.

**Cemetery Board**

Chris Elledge  
805 NW 41<sup>st</sup> Street  
Lawton, Oklahoma 73505  
03/28/18

**Lawton Housing Authority**

Edgar Crawford  
620 SW E Avenue  
Lawton Oklahoma 73501  
Unexpired Term 08/24/12

**Mayors Commission on the Status of Women**

Katie Noffske  
Ward 2  
1908 Kinyon Avenue  
Lawton, Oklahoma 73507  
Unexpired Term 09/14/12

18. Consider approval of payroll for the period of February 20 – March 4, 2012.

OLD BUSINESS ITEMS:

19. Consider an ordinance amending Sections 6-1-1-104 through 6-1-1-106, Division 6-1-1, Article 6-1, Chapter 6, Lawton City Code, 2005, by adopting the 2009 edition of the International Residential Code as minimum construction standards as required by the Oklahoma Uniform Building Code Commission Act, by adopting certain appendices created by the Oklahoma Uniform Building Code Commission related to those minimum standards, and by adopting certain amendments created by the Oklahoma Uniform Building Code Commission related to building plans, foundations, floors, wall construction, wall covering, flashing, roofing, energy efficiency, exhaust, fuel gas, plumbing, etc. as provided in the Act, providing for severability and establishing an effective date. Exhibits: Ordinance No. 12-\_\_.

Doug Wellhouse, Code Plans Supervisor, stated this ordinance was originally brought to the City Council in January. Staff was instructed at that time to take it back to the Building Appeals Board for their review. He stated the Building Appeals Board voted 5-0 to approve the state requirements and the amendments. He stated he was also asked to put the amendments in a simple sentence form. (He distributed that list).

Mayor Fitch stated he understood that there were some things that were going to be easier to comply with than what we had been previously using. He stated there are some additional codes and he questioned how critical they were to being absorbed into the workforce.

Wellhouse stated with the adoption of any code there are stricter requirements. The state has actually adopted amendments that actually decrease some of the requirements. He stated unless we officially adopt the appendices, they do not apply to this adoption of code.

Wells stated he understood that with the proposed ordinance there is nothing that makes the current code any stricter, although we do have in our current code things that are stricter than the state codes.

Wellhouse stated there are some issues on the building part that with the adoption of the 2009 versus the 2006 will be stricter. He stated the 2009 plumbing, mechanical and electrical part of the IRC was adopted a year and a half ago.

Wells stated our code is already stricter.

Wellhouse stated our code already meets state requirements other than the amendments.

Burk stated what that means is that it is going to be tougher. He stated the one he is concerned with is the section requiring residential sprinklers.

Wellhouse stated that is moved to the appendix, they actually struck it from the regular code in chapter 3. Unless we officially adopt the appendix, we do not enforce it.

Wells stated he wished he would have gotten the list of amendments two or three days earlier so that he could have reviewed it. He stated he does not know enough about this to actually vote to pass it without having time to look at this.

Tenis stated he agreed, this happens more frequently that he likes, that they sit down and have ten pages in front of them and they have to make a decision.

Moses stated he knows they have to adopt code changes for various reasons from time to time. He is concerned that the builders and developers need to be aware of the changes. He questioned if they have had an opportunity to see the changes in advance since the effective date is April 1, 2012.

Wellhouse stated that was the recommended adoption date from staff but the City Council can adjust the adoption date.

Moses stated we will be creating a problem if we don't allow the builders and developers to examine vague areas. He questioned if an assessment or developer review has been done.

Wellhouse stated this has gone before the Building Appeals Board three times.

Moses questioned what kind of feedback they received.

Wellhouse stated a number of people showed up and expressed their concerns.

Moses stated he feels that making this effective in two weeks is too short a period of time.

Burk stated the state is going to make us adopt this code eventually. In order to get grants and to qualify for certain things we will not have a choice. He stated he does not have a problem with adopting the codes that went to the Building Appeals Board because they are very thorough, but he would like to see us give everyone 90 days before these go into effect so that we can send out the notification of the changes.

Wells clarified that these will be required by the state for new construction or if you have to work on something in your home.

Wellhouse stated yes, if you are working on an item that requires you to bring it up to code. He stated they will have to deal with the commercial codes this fall.

**MOVED** by Burk, **SECOND** by Tenis to adopt **Ordinance 12-09**, waive the reading of the ordinance, read the title only and establishing and effective date of 90 days from date of approval. AYE: Zarle, Haywood, Shoemate, Tenis, Bellino-Hall, Burk, Moses. NAY: Wells.  
**MOTION CARRIED**

(Title read by City Attorney)

Ordinance 12-09

An ordinance pertaining to buildings, construction and housing, amending Sections 6-1-1-104 through 6-1-1-106, Division 6-1-1, Article 6-1, Chapter 6, Lawton City Code, 2005, by adopting the 2009 edition of the international residential code as minimum construction standards as required by the Oklahoma Uniform Building Code Commission act, by adopting certain appendices created by the Oklahoma Uniform Building Code commission related to those minimum standards , and by adopting certain amendments created by the Oklahoma uniform building code commission related to building plans, foundations, floors, wall construction, wall covering, flashing, roofing, energy efficiency, exhaust, fuel gas, plumbing, etc. As provided in the act, providing for severability and establishing an effective date of ninety days from March 13, 2012.

**NEW BUSINESS ITEMS:**

20. Discuss and provide direction to staff regarding elimination of provisions in City Code Section 22-2-1-215, Division 22-2-1, Article 22-2, Chapter 22, Paragraphs D., E., and F., Lawton City Code, 2005, as amended, regarding leak adjustments and adjustments for unexplained exceptional billings. Exhibits: Ordinance 12-\_\_\_\_.

Rick Endicott, Finance Director, stated there have been several discussions about leak adjustments over the past several months. There are two types of adjustments, one is for those underground leaks that are difficult to find and the other are service line leaks going from the meter to your house where you kind of know where the leak is and you get it fixed then come in and get an adjustment. Over the past nine years they have tweaked this provision in the code half a dozen times. The last time was in 2008. He stated we are about mid way as compared to other communities with our philosophy on leak adjustments. He stated something that we have not had in the past is an insurance program that is getting ready to kick off at the end of this month. For approximately \$50 residents are able to purchase this insurance that covers any kind of issue with your sewer on your service line. He stated there is no opportunity to have this insurance program for water lines. He received an email from Utility Service Partners who notified us that they will start their mailings around March 26<sup>th</sup>. Over the past six months we have adjusted approximately 120 accounts totaling \$34,000. He stated over the past eighteen months we have had more adjustments than normal because of the drought. He stated staff sat down with Councilmember Wells to try to figure out a way to try and program our system to be more effective in detecting leaks earlier, but it was not as easy as it sounds. Staff does a tremendous amount of work upfront when they are aware that a customer has a leak. Those are the one no one ever hears about. Based on discussions over the past few weeks, the proposed ordinance eliminates the leak adjustment ordinance entirely as it is written.

Wells stated the insurance is a great deal and he encouraged everyone to sign up. He stated when they write these off, the rest of the city is paying for somebody else's service line break.

Moses questioned if there was anything in between.

Endicott stated there have been different versions over the years.

Dwight Tanner Jr. 613 W. Gore, stated he read of this agenda item in the paper. He stated he is concerned that there are military families that could run into a situation where a cold front could move through when they are gone and their pipes burst. He stated under current policy they could receive help. If they don't receive help they may not be able to pay their bill and then they could be cut off which could affect their credit rating.

Wells stated he is retired military and he was in that same situation. He stated when he went home on leave he made arrangements with the neighbor to watch his home. The house is his responsibility and he is required to have a certain amount of insurance. He stated individual owners have a responsibility to take care of these things. He stated people can make arrangements to pay out their bills.

Mr. Tanner stated that people are already financially strapped and you give them no options.

MOVED by Wells, SECOND by Haywood to adopt **Ordinance 12-10**, waive the reading of the ordinance, read the title only and declaring an effective date of April 12, 2012. AYE: Haywood, Wells, Shoemate, Tennis, Bellino-Hall, Burk, Moses, Zarle. NAY: None. MOTION CARRIED

(Title read by City Attorney)

Ordinance 12-10

An ordinance pertaining to utility provisions, amending Section 22-2-1-215, Division 22-2-1, Article 22-2, Chapter 22, Lawton City Code, 2005, by deleting paragraphs D, E, and F, thereby eliminating all provisions for leak adjustments for unexplained exceptional billings, providing for severability, and declaring an effective date of April 12, 2012.

21. Consider a resolution approving the execution and delivery by the Lawton Economic Development Authority of a 2009 Economic Development Capital Improvement Reformed Note in the amount of not to exceed \$12,000,000 in aggregate amount outstanding at any one time for the purpose of establishing a later maturity date of June 5, 2012. Exhibits: Resolution No. 12-\_\_\_\_ and Revised Note.

Mayor Fitch stated this is an extension of a note that LEDA has with the three local banks for the downtown redevelopment project. He visited with the banks at length and they have extended this another ninety days and we hope that we will have some property sales within the next 90 days with as many as two entities. The interest rate has not changed but they have allowed the interest to be due at the end of the note on June 5<sup>th</sup>. He stated with some of the things that are on the schedule of events to happen, we will have monies to reduce this note and then we could possibly put it into some revenue bonds through sales tax and ad valorem that will be brought about by the downtown redevelopment and pay this note off. He stated this is something that has been done periodically and this has been a long process. He requested council approve this extension for the next 90 days.

MOVED by Wells, SECOND by Haywood to adopt **Resolution 12-29** approving the execution and delivery by the Lawton Economic Development Authority of a 2009 Economic Development Capital Improvement Reformed Note in the amount of not to exceed \$12,000,000 in aggregate amount outstanding at any one time for the purpose of establishing a later maturity

date of June 5, 2012. AYE: Wells, Shoemate, Tennis, Bellino-Hall, Burk, Moses, Zarle, Haywood. NAY: None. MOTION CARRIED

**REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER**

Bellino-Hall stated a property owner at 804 NW 44<sup>th</sup> Street had some problems and she emailed some pictures to public works staff and they are helping her handle it and she appreciated their help.

Burk stated the playground in Elmer Thomas Park is really coming along. He stated 48 large trees have been delivered that will be planted around that area.

Wells thanked public works staff for doing an outstanding job on a drainage project in his ward. He also thanked neighborhood services staff for taking care of the calls he has turned in.

Haywood questioned the status of the city pool.

Kim Shahan, Parks and Recreation Director, stated the filter system has been purchased and the installation process will start this week and everything should be on task to open this summer.

Haywood thanked public works staff for all their hard work especially on 5<sup>th</sup> Street. He stated people go crazy when they see projects in the older part of town.

Moses stated he has received a call regarding 1601 Dearborn which is in progress, but his constituent questioned how long it is going to take to get rid of the mess. He requested a status report. He stated he is very impressed with city staff and the quality of the work is as good as he has ever seen. Staff does a wonderful job of pulling everything together.

Mitchell reminded everyone of the Oklahoma Municipal League Legislative Day at the Capitol which will be held on Monday, March 19, 2012. He and the Mayor are planning to attend.

Wells stated he would like to attend.

Mayor Fitch stated there is a lot of legislation that is vital to this community and he encouraged the council to support issues that support the city and address this with legislators. He stated the chamber fly in trip to Washington, DC is scheduled for next month and they will be addressing some chairmen of different committees within the senate and house.

The Mayor and Council convened in executive session at 6:59 p.m. and reconvened in regular, open session at 7:46 p.m. Roll call reflected all members present.

**BUSINESS ITEMS: EXECUTIVE SESSION ITEMS**

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

Jensen read the title of item #22. No action was taken.

23. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending case of City of Lawton vs. Dennis and Mary Lou Merrifield et al, CJ-2011-198, and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item #23.

MOVED by Wells, SECOND by Haywood to appoint Councilmember Richard Zarle, Ward 6, as the representative for the City of Lawton at the scheduled settlement conference regarding Comanche County District Court case CJ-2011-198 styled City of Lawton vs. Dennis and Mary Lou Merrifield et al. AYE: Bellino-Hall, Burk, Moses, Zarle, Haywood, Wells, Shoemate, Tenis. NAY: None. MOTION CARRIED

24. Pursuant to Section 307B3 and C10, Title 25, Oklahoma Statutes, consider convening in executive session for the purposes of conferring on matters pertaining to economic development, including the purchase/transfer of property, incentive proposals, and financing in connection with the Lawton Downtown Redevelopment Project and other development projects under consideration in the City, and take appropriate action in open session as necessary. Exhibits: None.

Jensen read the title of item #24. No action was taken.

There being no further business to consider, the meeting adjourned at 7:48 p.m. upon motion, second and roll call vote.

---

FRED L. FITCH, MAYOR

ATTEST:

---

TRACI HUSHBECK, CITY CLERK