

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
SEPTEMBER 24, 2013 – 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

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 Dr. Keith Miles Central 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.

EMPLOYEE SPOTLIGHT PRESENTATION TO ELTON ROGERS, IT DIVISION

Mayor Fitch and Bryan Long recognized Elton Rogers from IT Division.

AUDIENCE PARTICIPATION:

Carl Eubanks, stated he has been trying to get a water meter at his property at 1711 S. Sheridan for 8-10 years and all he has gotten is the run around. He was told he had to pay a \$1,500 impact fee. He was told that this property had water before he bought the property. He questioned how he could get water.

Mayor Fitch questioned if this was a business or a vacant lot.

Mr. Eubanks stated there is a building on the property and at one time there was a church, so he knows they had to have had water. He stated all he uses the building for is to store tools.

Haywood stated he was called and he went to the property. He stated it was a church and there used to be a water meter but it is no longer there. Since then they have moved the water meter to

24th and Wolf. He stated he was told it would cost \$1,500. He questioned where Mr. Eubanks lived.

Mr. Eubanks stated he lives in Sullivan Village.

Haywood stated we need to look into it and see what we can do.

Mayor Fitch stated he and Councilmember Haywood will discuss the issue and then talk with staff and find out why there is no meter. He stated someone will be in touch with Mr. Eubanks.

Long stated they will certainly look into this issue.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETINGS OF AUGUST 27 AND SEPTEMBER 10, 2013.

MOVED by Wells SECOND by Zarle to approve the minutes of the Lawton City Council regular meetings of August 27th and September 10, 2013. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

CONSENT AGENDA: The following items are considered to be routine by the City Council and will be enacted with one motion. Should discussion be desired on an item, that item will be removed from the Consent Agenda prior to action and considered separately.

MOVED by Wells SECOND by Burk 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: Isaiah Butcher and Rosa Butcher in the amount of \$4,413.79. Exhibits: Legal Opinions/Recommendation and **Resolution No. 13-57**.
2. Consider the following damage claims recommended for denial: Southwestern Bell Telephone dba AT&T Oklahoma in the amount of \$979.38 and O'Soon Jimpson in the amount of \$3,047.54. Exhibits: Legal Opinions/Recommendations.
3. Consider adopting a resolution approving the compromise settlement and making payment in the workers' compensation claim of Phillip Gibson. Exhibits: **Resolution No. 13-58**.
4. Consider adopting a resolution approving indebtedness (the "Note") of the Lawton Industrial Development Authority in the form of an extension and reissuance of a Note in the original principal amount of \$2,500,000 originally issued for the purpose of providing permanent financing of improvements relating to the downtown historical preservation site of the original Lawton High School to be used for City and conference purposes, with the repayment to include accrued interest from September 12, 2012, and certain unpaid closing costs; confirming documents including an Agreement of Support with the Authority; and other matters relating thereto. Exhibits: **Resolution 13-59** and Agreement of Support.

5. Consider approving instructor's contracts with Steven Scott Smith (\$615.00), Kenneth Hobbs (\$517.50), Catherine Daugherty (\$262.50) and Kathleen Long (\$232.50) for the Children's Art Studio Fall 2013 semester. Exhibits: Contracts on file in City Clerk's office.
6. Consider approving contract with Eleanor McDaniel to participate in the FY13-14 Native American Program "Sharing the Spirit" and authorize the Mayor and City Clerk to execute the agreement. Exhibits: Contract on file in City Clerk's office.
7. Consider approving an agreement with C.H. Guernsey and Company for professional engineering Report/Study of the air conditioning systems at McMahan Auditorium. Exhibits: A copy of the agreement is on file in the City Clerk's office.
8. Consider accepting reimbursement check of \$1,346.22 from the Fire Management Assistance Grant (FMAG), and approving the deposit of these funds into the Lawton Fire Operations building maintenance account (001-1195-000-00-02110000). Exhibits: None.
9. Consider accepting reimbursement check of \$811.29 from the Liberty Mutual Insurance company, and approving the deposit of these funds into the Lawton Fire Operations building maintenance account (001-1195-000-00-02110000). Exhibits: None.
10. Consider approving the application and issuing a Revocable Communications Cable Permit to Dobson Technologies to install approximately sixteen thousand one hundred and seventy five feet (980 rods) of fiber optic cable within the right of way along Flower Mound Road and NE Cache Road. Exhibits: Revocable Communications Cable Permit is on file in the City Clerk's office.
11. Consider approving the construction plat for the proposed Quanah Parker Commercial Addition subject to conditions, along with an application to allow access to the limited access roadway. Exhibits: Location Map and Application.
12. Consider accepting a warranty deed from Harry L. & Loreta J. Aucion for right of way needed for the SE 45th Street Reconstruction (Between Lee & Gore) Project #2006-12, authorizing the Mayor and City Clerk to execute the document and authorizing payment for the same. Exhibits: Location Map. Document is on file in the City Clerk's office.
13. Consider accepting two permanent easements and two temporary easements from Brett Reed 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. Document is on file in the City Clerk's office.

14. Consider accepting the 2012 CIP Street Mill & Overlay Program (West Gore Boulevard from Sheridan Rd to NW 38th Street & West Cache Road from NW 52nd Street To NW 67th Street) Project #2012-06 as constructed by T&G Construction, Inc. and placing the Maintenance Bond into effect. Exhibits: The Maintenance Bond is on file in the City Clerk's office.
15. Consider approving the Amended Retainer Agreement for Professional Veterinarian Services with Dr. Howard Wayne Haney for the purchase of medications used in connection with veterinarian services. Exhibits: Amended Retainer Agreement for Professional Veterinarian Services.
16. Consider authorizing the Mayor to execute the recertification application for the Community Rating System of the National Flood Insurance Program. Exhibits: CRS Recertification Application.
17. Consider approving Depositor Agreements and Online Banking Service Agreements between the City of Lawton and IBC Bank, and authorize the Mayor and City Clerk to execute. Exhibits: Depositor Agreements (on file with City Clerk); IBC Link Agreement and Schedules A through E (on file with City Clerk).
18. Consider extending contract (CL13-011) Fluorosilicic Acid with Univar USA, Inc. of Bedford Park, IL. Exhibits: Department Recommendation, Contract Extension Form, Price Bid Sheet.
19. Consider extending contract (CL12-003) Testing Services with Standard Testing of Lawton, OK. Exhibits: Department Recommendation, Contract Extension Form, Price Bid Sheet.
20. Consider extending contract (RFPCL13-012) Employee Physicals/Drug Screen Testing Section B (Drug/Alcohol Testing) with Allied Lab. Inc. of Lawton, OK. Exhibits: Department Recommendation, Contract Extension Form, Price Bid Sheet.
21. Consider extending contract (RFPCL13-012) Employee Physicals/Drug Screen Testing Section A (Physicals) with Comanche County Hospital Authority of Lawton, OK. Exhibits: Department Recommendation, Contract Extension Form, Price Bid Sheet.
22. Consider awarding (CL14-005) Nuisance Abatement – West Side to Lawn Wizards of Lawton, OK and Teen Challenge of Cache, OK. Exhibits: Department recommendation, Price Bid Sheet, Abstract of Bids.
23. Consider approving appointments to boards and commissions. Exhibits: None.

Mayor's Commission on the Status of Women

Toni D. Walker
1313 NW Maple Avenue
Lawton, Oklahoma 73501
09/24/2015

24. Consider approval of payroll for the periods of September 2-15, 2013.

NEW BUSINESS ITEMS:

25. Consider the Consolidated Annual Performance and Evaluation Report (CAPER) for Federal Fiscal Year (FFY) 2012, receive a briefing on the CAPER, hold a public hearing to receive input from citizens, and approve the report for submission to HUD, and authorize the Mayor to sign the approved CAPER. Exhibits: None. (The CAPER is on file in the City Clerk's Office.).

Tim Libby, Assistant Director for Housing and Community Development, stated HUD requires grantees to submit a CAPER, which reports on the Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) Programs' activities and accomplishments during the previous program year.

A power point presentation was made by Libby. (On file in the City Clerk's Office)

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

MOVED by Haywood SECOND by Wells to approve the CAPER for FFY 2012, and approve the report for submission to HUD. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

26. Consider discussing methods to deter pedestrians from crossing Interstate 44 between Gore Blvd. and Lee Blvd. and take appropriate action. Exhibits: Photographs of existing wire right-of-way fence along the west side of I-44.

Jerry Ihler, Public Works Director, stated on the evening of September 1, 2013, a pedestrian was killed while crossing Interstate 44 just south of Gore Blvd. Pedestrian activity on the interstate in this one-mile section has become a common occurrence due to the location of the Comanche Casino and other businesses in the area as well as limited physical barriers on either side of the interstate.

Ihler presented photographs of the existing fence on I-44. He stated it is a wire woven fence with a couple of strands of barbed wire on the top portion. People have pushed the barbed and woven wire down to crawl under to get across. The interstate and right-of-way fencing is maintained by the Oklahoma Department of Transportation (ODOT). City staff has contacted ODOT and expressed concerns regarding safety of citizens walking across Interstate 44 and the need for a more restrictive right-of-way boundary fence and signage. ODOT and staff would like feedback from City Council as it relates to deterring pedestrian from crossing Interstate 44. ODOT has received a few complaints over the years from some of the property owners on the west side asking that the fence be removed. They are concerned that with a chain link fence their businesses would not be as visible from I-44. He stated that I-44, for the majority of that mile between Gore and Lee Boulevard is about 8-10 feet higher than the area where the fence would go. Staff does not believe there would be any kind of view restriction. The other complaint they

had was regarding the weeds growing along the existing fence. Staff feels the aesthetics is a far less concern than the safety of the public. He stated if they went with a chain link fence they could put it up six inches off the ground and it would be easy to maintain as far as weed eating or spraying. They are most concerned about public safety and restricting the people from crossing I-44. Staff is recommending that the council authorize the Mayor to sign a letter to ODOT requesting a more restrictive barrier to keep pedestrians from crossing I-44. They are only looking at the west side because pedestrians are coming from the hotels on the west side and also from businesses and homes.

Burk stated he and Councilmember Bellino-Hall has complained and that fence is not that old. They have had all those business owners complain that the fence is ugly. In some areas the grass is over the top of the fence. It is hard to take care of those types of fences. Even if they raise the fence they do not have the manpower to weed eat that every two or three weeks. If people want to get to the other side, they will get there. We have allowed them to take down that type of fence on the east side and put up a beautification fence. Some of the hotels on the west side also wanted to put up that same type of white fencing.

Bellino-Hall questioned what liability the city has in this issue.

Ihler stated this right of way boundary fence is maintained and owned by ODOT and he feels they have the liability.

Bellino-Hall stated that people are going to find a way across. The fences are ugly and she would not put any fence there. We should not take responsibility for stupidity.

Burk questioned why they just could not put up signs that say you cannot cross.

Ihler stated yesterday ODOT installed ten signs. Staff feels there should be a more restrictive barrier.

Burk stated they are crossing the bridge at I-44 all night long.

Ihler stated it is a very small area to walk.

Burk stated he does not feel that putting up a chain link fence will stop anyone from crossing that road.

Mayor Fitch stated ODOT is asking for guidance from the city council, but it is their property. He feels they should forward a letter to ODOT and recommend that they provide adequate safety or whatever is needed for this situation and let them make the decision of what goes up. He stated ODOT is responsible for mowing.

Ihler stated the fence is on the property line. ODOT is responsible for the fence maintenance and in between the right of way and the City would be responsible for the west side of the fence.

Mayor Fitch stated we will still have responsibility mowing up to the edge of the fence on our side.

Ihler stated we contract that out.

Jackson stated we have one of the ugliest fence situations at Lawton High. It has been there a number of years. He was going to mention to the City Manager if we could look into taking that down.

Haywood stated you still have kids climbing over that fence. It is saving lives by being there.

Ihler stated it is very effective as far as keeping kids from crossing.

Haywood questioned if we could ask if ODOT would extend the bridge out for a pedestrian crossing.

Mayor Fitch stated they just got through reworking that bridge and that could be five years away. They would either have to narrow the lanes of traffic or widen the bridge.

Jackson stated he agreed with the Mayor and they need to forward a letter to ODOT asking them to look at the situation and see what they need to do.

Mayor Fitch stated they would forward a letter saying that the city council is concerned from a safety standpoint and they recommend they come up with a decision on what they want to do and get back with the council prior to doing something.

Wells stated it should include a recommendation on a pedestrian crossing somewhere.

Ihler clarified a crossing on the bridge on Gore.

MOVED by Wells SECOND by Burk to forward a letter to ODOT. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

27. Consider discussing the possible banning of fireworks and/or the regulation of the sale, possession, and discharge of Fireworks within the city limits of Lawton and take appropriate action. Exhibits: Lawton City Code, Article 7-11 and Presentation from Fire Marshal.

Chief Dewayne Burk, Lawton Fire Department, stated they are here tonight to brief the council on a recurring issue that comes up every year around Independence Day that has to do with the sale, possession and discharge of fireworks within the city limits of Lawton. He suggested the City take a more aggressive approach to the problem and actual banning. The current code they follow is very confusing. Currently we allow the sale of fireworks in the community but they cannot be discharged. The bigger issue is the enforcement of the specific ordinance that is in place right now.

Mark Mitchell, Fire Marshall, stated we do currently have an ordinance that deals with fireworks but that ordinance is not working and is confusing. We do allow the sale, but prohibit the discharge.

(Mitchell presented a power point presentation which is on file in the City Clerk's Office).

Mitchell stated their interest is not to keep people from celebrating, but fireworks are dangerous. He suggested a committee be formed to look at the issues.

Mayor Fitch stated the options are to vote to ban, leave it the way it is or recommend a committee.

Haywood stated even if they go outside city limits to buy fireworks they will still bring it back to the neighborhoods. He stated we don't have enough police officers to arrest everyone and they have to see them. In some neighborhoods if they see the police coming they will stop shooting.

Mitchell stated that is what is occurring now, when the police get a complaint call, the officer responds to that address, but because it is a misdemeanor, it has to occur in their presence. When they see those headlights they stop shooting and the officer drives by and there are fireworks there, but it is not illegal to possess them. It is difficult and unenforceable at this point. If they were to ban to sale, possess and discharge like many of the larger cities in the state, he believes if fireworks were not being sold it would slow it down and it would give some enforceability to the ordinance. If they are not allowed to possess them in the city and there is a pile of them in the street, they can either issue a citation or confiscate the fireworks. The way it is right now it is virtually unenforceable.

Zarle stated this past fourth of July was the worst he has ever seen. He has always supported the sale of fireworks, but this year he cannot support it and the people have asked for this.

Burk stated he had more calls during that time of the year then he has ever had. His neighbors were asking him what can be done. You don't ever want to stop someone from producing income, he is for small business, but we have to look at the best interest of every citizen and the safety of every citizen. He suggested they select a committee to look at this issue and include citizens who are fireworks distributors to come in and be a part of the discussion. He would hate to see them ban this and not give them the opportunity to have input.

Bellino-Hall requested they bring something back to the council within the next two months.

Mayor Fitch suggested they finalize by the last council meeting in November.

Mayor Fitch appointed Wells, Tanner, Burk and Jackson. Wells volunteered to chair the committee.

MOVED by Burk SECOND by Wells to appoint a council committee to study the issue and bring something back to the council by the last meeting in November. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Haywood, Wells. NAY: Zarle. MOTION CARRIED.

28. Consider an ordinance pertaining to business amending the titles of Article 7-17 and Division 7-17-1, Chapter 7, Lawton City Code, 2005, by adding the words “AND GEM” before the word “DEALER”; amending Sections 7-17-1-1701, 7-17-1-1702, 7-17-1-1703, 7-17-1-1704, 7-17-1-1706, 7-17-1-1708, 7-17-1-1709, 7-17-1-1710, 7-17-1-1711, and 7-17-1-1712, Division 7-17-1, Article 7-17, Chapter 7, Lawton City Code, 2005, by revising the municipal regulations governing precious metal and gem dealers; and repealing Sections 7-17-1-1705 and 7-17-1-1707, Division 7-17-1, Article 7-17, Chapter 7, Lawton City Code, 2005; providing for severability; and establishing an effective date. Exhibits: Ordinance 13-__.

Rogalski stated staff recently reviewed existing city code provisions and state laws regulating precious metal dealers. This ordinance amends city code consistent with state law so that it includes gem dealers. This ordinance additionally revises current municipal regulations governing precious metal and gem dealers so they are consistent with state laws. He stated there were some additional modifications to the ordinance. (He distributed a modified copy of the ordinance). He stated there is a section of the code regarding precious metal and gem dealers and this is different than a retail jeweler. It is also different than a pawn broker. This is someone who buys used precious metals for cash and then resells them. Our code is saying that you have to have a license issued by the state and you have to display your valid state license. Also a record of transactions be maintained for four years, the report of transactions be reported to the Lawton Police Department within three days and those items collected have to be maintained on the premises for ten days. The idea behind this code is to try to prevent theft.

Wells questioned if this was in accordance with the new state law.

Rogalski stated yes, stated law was just updated.

Wells questioned if the previous law required dealers to report to the police and hold articles. He stated this looks like it is more like a pawn shop law.

Rogalski stated the code is similar, but pawn shops are regulated by the state separately and they are in a different part of our code.

Wells questioned if there was any reason to meet with dealers regarding this issue. Normally you would think of a pawn shop as holding onto assets for either a pawn or a resale, where these dealers are buying it to melt down and sell.

Rogalski stated that is the distinction between the two, otherwise they are very similar. The LPD has a relationship with both of them because they tend to be avenues for stolen merchandise. The industry, state and LPD are trying to stop this by having these rules in place.

Mayor Fitch stated city codes have to be in line with state statutes or even more restrictive.

Wells stated he does not have any problem with the ordinance. He questioned if jewelry stores fall under this.

Rogalski stated no, we have made our code very specific. This is talking about someone who purchases pre-owned jewelry for cash, not for pawn or new jewelry. There is a very narrow window in what this applies to.

Wells stated local jewelers also buy gold.

Rogalski stated state statute is clear that if you accept used merchandise you should have a license like this.

Jensen stated it specifically addresses that the definition of a retail jeweler is one that purchases precious metals or gems for cash consideration only from someone other than an original manufacturer, wholesaler or their authorized representative is a dealer. They are a regulated retailer and it is not by us, it is by the state license. We are simply trying to bring this up to date in accordance with the state statute so that we have some enforcement authority at the local level.

MOVED by Wells SECOND by Zarle to adopt **Ordinance 13-30**, 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 13-30

An ordinance pertaining to business amending the titles of Article 7-17 and Division 7-17-1, Chapter 7, Lawton City Code, 2005, by adding the words “and gem” before the word “dealer”; amending Sections 7-17-1-1701, 7-17-1-1702, 7-17-1-1703, 7-17-1-1704, 7-17-1-1706, 7-17-1-1708, 7-17-1-1709, 7-17-1-17010, 7-17-1-1711, and 7-17-1-1712, Division 7-17-1, Article 7-17, Chapter 7, Lawton City Code, 2005, by revising the municipal regulations governing precious metal and gem dealers; and repealing Sections 7-17-1-1705 and 7-17-1-1707, Division 7-17-1, Article 7-17, Chapter 7, Lawton City Code, 2005; providing for severability; and establishing an effective date.

29. Consider a resolution repealing Article A-7-17, Appendix A, Schedule of Fees and Charges, Lawton City Code, 2005, as set forth in Exhibit “A” of the Resolution, and establishing an effective date. Exhibits: Resolution 13-__ and Exhibit “A”.

MOVED by Burk SECOND by Jackson to adopt **Resolution 13-60**, repealing Article A-7-17, Appendix A, Schedule of Fees and Charges, Lawton City Code, 2005. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Jackson stated a committee meeting was held with a group who is concerned about the youth activity participation levels within the city. He stated five administrators from Lawton Public Schools attended as well as council members Wells and Bellino-Hall. They are concerned with the fall off of participation levels of youth activities in town over the past five years. The committee requested additional data from staff to see exactly where we stand.

Wells questioned if the fireworks committee could meet on October 9th at 1:30 p.m. in the 3rd Floor conference room.

Long presented the financial report for the month ending August 31, 2013. (Report is on file in the City Clerk's office).

Mayor Fitch announced that the International Festival will be held this weekend.

Haywood stated on Sunday at 2:30 p.m. a dedication for a home built by Habitat for Humanity will be held at 1210 Georgia.

There being no further business to consider, the meeting adjourned at 7:34 p.m. upon motion, second and roll call vote.

FRED L. FITCH, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK