LAWTON CITY COUNCIL
REGULAR MEETING

NOVEMBER 8, 2016
6:00 P.M.

LAWTON CITY HALL
COUNCIL CHAMBERS/AUDITORIUM

AGENDA
LAWTON CITY COUNCIL REGULAR MEETING
NOVEMBER 8, 2016 - 6:00 P.M.
LAWTON CITY HALL
COUNCIL CHAMBERS/AUDITORIUM

MEETING CALLED TO ORDER WITH INVOCATION AND PLEDGE OF ALLEGIANCE

ROLL CALL

PROCLAMATION FOR NATIONAL FAMILY CAREGIVERS MONTH

PROCLAMATION FOR PSI UPSILON CHAPTER, OMEGA PSI PHI FRATERNITY, INC. WEEK

AUDIENCE PARTICIPATION: Anyone having an item of business to present to the City Council that does not appear on the agenda, please come forward at this time.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF OCTOBER 25, 2016.

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.

1. Consider the following damage claim recommended for approval: Invitational Apartments in the amount of $1,200.00. Exhibits: Legal Opinions/Recommendations, Resolution No. 16-___.

2. Consider the following damage claim recommended for denial: Thelma and John Pendley in the amount of $69,000.00. Exhibits: Legal Opinion/Recommendation.

3. Consider approving an Outside Water Sales Contract with Shawn Owen, and authorize the Mayor and City Clerk to execute the Contract. Exhibits: Location Map. Contract is on file in the City Clerk's Office.

4. Consider approving an amendment to the professional services agreement with John C. Mackey Jr., to add duties of an independent investigator, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Amended Agreement for Professional & Legal Services on file in City Clerk's Office.

5. Consider authorizing NFP, the City's insurance broker, to prepare a Request for Proposal (RFP) for an online benefit administration system that will provide a private exchange model allowing City of Lawton employees to choose their insurance plans. Exhibits: None.

6. Consider amending the Community Development Block Grant Fund FY 2016-2017 budget. Exhibits: U.S. Department of Housing & Urban Development Award letter and Funding Allocation Summary.

7. Consider adopting a resolution authorizing the installation and/or removal of traffic control measures on NE 43rd at Cache Road and on Mossy Oak Drive at NE 45th and East Gore Blvd at Albert Johnson Sr. Avenue. Exhibits: Resolution 16-__, Traffic Commission Minutes and Traffic Issue Requests.

8. Consider accepting a grant from the Federal Emergency Management Agency (FEMA) Hazard Mitigation Grant Program (HMGP) in the amount of $89,611.20 for acquisition and demolition of flood-prone properties located at 906 SW 9th, 908 SW 9th, and 810 SW I Ave. Exhibits: Grant award letter, Hazard Mitigation Assistance Grant Agreement.

9. Consider approving an agreement and payment of $1,800.00 to Mr. Robert Arbuckle for the replacement of a portion of the residential driveway located at 6819 NW Crestwood Dr., which was demolished in the course of completing a city waterline repair. Exhibits: Proposed agreement between the City of Lawton and Mr. Arbuckle.

10. Consider adopting the 2016 City of Lawton Stormwater Management Plan (SWMP). Exhibits: Stormwater Management Plan on file in the City Clerk's Office.

11. Consider approving plans and specifications for the Elmer Thomas Park Splash Pad Project, Project No. 2016-01 and authorizing staff to advertise for bids. Exhibits: Plans and specifications are on file in the Engineering Department office.

12. Consider approving appointments to boards and commissions. Exhibits: None

13. Consider approval of payroll for the periods of October 24 – November 7, 2016.

NEW BUSINESS ITEMS:

14. Consider an ordinance amending Section 10-4-402, Article 10-4, Chapter 10, Lawton City Code, 2015, relating to the disposition of personal property in the possession of the Chief of Police, by amending the notice requirements for potential property owners to match those required by state law; providing for severability and establishing an effective date. Exhibits: Ordinance 16-___.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

ADJOURNMENT

The City of Lawton encourages participation from all of its citizens. If participation at any public meeting is not possible due to a disability, notification to the City Clerk at (580) 581-3305 at least 48 hours prior to the scheduled meeting is encouraged to make the necessary accommodations. The City may waive the 48 hour rule if interpreters for the deaf (signing) is not the necessary accommodation."

ITEM NO. 1

MTG. DATE **November 8, 2016**

CITY COUNCIL MEETING
STAFF AGENDA ITEM COMMENTARY

ITEM TITLE: Consider the following damage claim recommended for approval: Invitational Apartments in the amount of $1,200.00

INITIATOR: City Attorney KF for FJ

STAFF INFORMATION SOURCE: City Attorney

BACKGROUND: The listed claim has been filed against the City of Lawton with the City Clerk. The claim has been investigated by the staff and a legal opinion/recommendation has been prepared by the City Attorney's Office.

Invitational Apartments: Claim in the amount of $1,200.00 for reimbursement of a plumbing bill

EXHIBIT: Legal Opinions/Recommendations
Resolution No. _____

KEY ISSUES: N/A

FUNDING SOURCE: N/A

STAFF RECOMMENDED COUNCIL ACTION: Approve the claim listed above.

mbH:\Council\Agenda\2016 Agenda Items\11.08.16DamageClaimApproval.doc

OFFICE OF THE CITY ATTORNEY

CLAIMS MEMORANDUM #DC-2016-062

TO: **Mayor and Council**

FROM: **Kelea Fisher**
Assistant City Attorney

DATE: **October 31, 2016**

MEETING: **November 8, 2016**

RE: **Damage claim of**
Lawton Invitational Apartments
4645 W, Gore
Lawton, OK 73505

Submitted in the amount of $1,200.00 on August 10, 2016

RECOMMENDATION: **Approval in the amount of $1,200.00**

BASIS OF CLAIM: Sandra Cochrane, agent for Lawton Equity Enterprises dba Invitational Apartments located at 4645 W. Gore Boulevard, alleges on March 2, 2016, a City of Lawton employee made contact with their office and informed them that a leak was detected on the private side of the meter/service line and it needed to be repaired. Invitational Apartments hired a plumber to make the repair and the plumber found a section of the City's main with a crack in it. Claimant is seeking reimbursement of $1,200.00, which is the amount that plumber charged them for four hours tractor work and four hours labor.

DATE OF DAMAGE: March 2, 2016

FACTS: According to Water Distribution records, a Water Distribution Supervisor went to check on a reported water leak at 4645 W. Gore on several occasions and on February 6, 2016, he notified the apartment office of the leak and showed the apartment maintenance worker the approximate location of the leak. On March 2, 2016, a plumbing company called Water Distribution to inform them that while digging up the service line, he found a leak on the City's main. Water Distribution called for emergency locates and started their repair two hours later. According to the crew leader, when he pulled out the first bucket of dirt he could see that the main had a split in it and looked as if it was previously scraped with a backhoe bucket by the plumber. The crew completed the main repair at approximately 9:15 pm. and left the hole open for the plumber to make the repair to the service line. The crew returned the next day to cover the hole. The City Attorney's Claims Investigator asked the crew chief who contacted the plumber to let him know the main repair was complete so that the plumber could make his repair and the crew chief said he did not contact the plumber and he was not sure who, if anyone, notified the plumber. Therefore, it is

unknown whether or not the plumber came back to repair the alleged service line leak. However, after Water Distribution made the repair to the **main**, there have not been any new reports of a water leak at that location.

LEGAL BASIS FOR APPROVAL OF CLAIM: Pursuant to Title 51, Oklahoma Statutes, §151 et seq., municipalities are held accountable in the same manner as private entities or individuals for negligent acts or omissions that result in harm to others. However, negligence is never presumed, and the burden of proving negligence and that it was the proximate cause of the harm complained of, is on the complaining party. Oklahoma Ry. Co. v. Ivery, 204 P.2d 978 (Okla. 1949).

In this instance, the water leak was initially reported as a service line leak. However, after the City repaired the **main,** there were no new reports of a leak. There is no proof that the City contacted the plumber to repair the reported service line leak nor is there any proof that the plumber repaired the service line after the main line was repaired. Therefore, the facts seem to indicate that the leak was actually on the City's main given the fact that the leak ceased to exist after the City repaired the main. Accordingly, this office recommends approval of this claim in the amount of $1,200.00.

KELEA FISHER
ASSISTANT CITY ATTORNEY

Mincie Beamesderfer

Mincie Beamesderfer, CLA
Claims Investigator

mbH:\Damage Claims\MRV\Damage Claims\2016-062WaterMainBreakImproperNotificationApp.doc

RESOLUTION NO. 16-____

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO ASSIST SANDRA COCHRANE ON BEHALF OF INVITATIONAL APARTMENTS IN FILING A FRIENDLY SUIT IN THE DISTRICT COURT OF COMANCHE COUNTY, OKLAHOMA, AGAINST THE CITY OF LAWTON; AND AUTHORIZING THE CITY ATTORNEY TO CONFESS JUDGMENT THEREIN IN THE AMOUNT OF ONE THOUSAND TWO HUNDRED AND 00/100 DOLLARS ($1,200.00).

WHEREAS, on March 2, 2016, City of Lawton Water Distribution informed Invitational Apartments that they had a leak on their water service line and it was later discovered that the leak was on the City's water main, causing damage in the alleged amount of $1,200.00, as stated in the claim, which was filed with the City Clerk against the City of Lawton on August 10, 2016; and,

WHEREAS, it would be in the best interest of the City of Lawton to settle the claim by filing a friendly suit in the District Court of Comanche County and confess judgment therein.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Lawton, Oklahoma, that the City Attorney is hereby authorized and directed to assist Sandra Cochrane in bringing suit in the District Court of Comanche County, Oklahoma, against the City of Lawton and to confess judgment therein in the amount of One Thousand Two Hundred and 00/100 Dollars ($1,200.00); and further, **BE IT RESOLVED** that the Mayor and City Clerk are hereby authorized to execute a written Warrant of Attorney directing the City Attorney to confess judgment against the City in said amount.

ADOPTED and **APPROVED** by the Council of the City of Lawton this 8th day of November, 2016.

_____
FRED L. FITCH, MAYOR

ATTEST:

_____
TRACI L. HUSHBECK, CITY CLERK

APPROVED as to form and legality this 8th day of November, 2016.

_____
KELEA FISHER
ASSISTANT CITY ATTORNEY

WARRANT OF ATTORNEY
FOR MAKING CONFESSION OF JUDGMENT

KNOW ALL MEN BY THESE PRESENTS:

That on November 8, 2016, by Resolution, the City Council of the City of Lawton, directed the City Attorney of the City of Lawton to waive the service of summons, to make a general appearance and to confess judgment in the District Court of Comanche County case to be styled:

INVITATIONAL APARTMENTS vs. CITY OF LAWTON, OKLAHOMA

CASE NO. CS-2016-

in the amount of $1,200.00.

Said Resolution further directed the Mayor and City Clerk of the City of Lawton to execute this Warrant, and the execution of said Warrant by the Mayor and the attestation by the Clerk of the City of Lawton thereby authorized the City Attorney to confess aforesaid judgment in the amount of One Thousand Two Hundred and 00/100 Dollars ($1,200.00).

Dated this 8th day of November, 2016.

_____
FRED L. FITCH, MAYOR

ATTEST:

_____
TRACI L. HUSHBECK, City Clerk

APPROVED as to form and legality this 8th day of November, 2016.

_____
KELEA FISHER
ASSISTANT CITY ATTORNEY

ITEM NO. 2

MTG. DATE: **November 8, 2016**

CITY COUNCIL MEETING
STAFF AGENDA ITEM COMMENTARY

ITEM TITLE: Consider the following damage claim recommended for denial: Thelma and John Pendley in the amount of $69,000.00

INITIATOR: City Attorney KF for RJ

STAFF INFORMATION SOURCE: City Attorney

BACKGROUND: The listed claim has been filed against the City of Lawton with the City Clerk. The claim has been investigated by the staff and a legal opinion/recommendation has been prepared by the City Attorney's Office.

Thelma and John Pendley: Claim in the amount of $69,000.00 for sewer backup

EXHIBIT: Legal Opinion/Recommendation

KEY ISSUES: N/A

FUNDING SOURCE: N/A

STAFF RECOMMENDED COUNCIL ACTION: Deny the claim listed above.

mbH:\Council\Agenda\2016 Agenda Items\11.08.16DamageClaimDenial.doc

OFFICE OF THE CITY ATTORNEY

CLAIMS MEMORANDUM #DC-2016-049

TO: **Mayor and Council**

FROM: **Kelea L. Fisher** KF
Assistant City Attorney

DATE: **October 31, 2016**

MEETING: **November 8, 2016**

RE: **Damage claim of**
Thelma and John Pendley
6609 Tabor Street
N. Richland Hills, TX 76180

RECOMMENDATION: **Denial**

BASIS OF CLAIM: Thelma and John Pendley are the owners of the property located at 1505 SW Bishop Road, Lawton, Oklahoma. Thelma Pendley's son, Chuck Pistol, occupies the property. Mrs. Pendley filed a claim on July 8, 2016, alleging that on June 12, 2016, the City's main sewer line backed up into the house, spreading sewage throughout the house for several days. Mrs. Pendley further alleges that on June 20, 2016, the house flooded again with 8-12 inches of sewage. She submitted two estimates to remove the flooring, install sheetrock, paint, and to otherwise repair the damages to the house. One estimate was in the amount of $38,734.60 and the other was in the amount of $39,660.16. Mrs. Pendley requested reimbursement in the amount of $39,660.16.

Mrs. Pendley also alleges that during this timeframe, the City put a generator on 15th and Bishop (connected to a pump) and brought her son a gas can to keep the generator going. She further alleges that on June 20th, the generator stopped and she "tried to get the gas (can) to 15th Street but didn't make it." There is no further allegation or request for reimbursement related to Mrs. Pendley allegedly picking up the gas can. However, the City Attorney's Office (as well as other City Departments) were contacted by Cheri Tenis-Chandler, stating that she is Mrs. Pendley's "physical therapist" and alleging that Mrs. Pendley hurt her back picking up the gas can. Mrs. Chandler also informed the City Attorney's Office that she was "assisting Mrs. Pendley" with her claim because Mrs. Pendley has health issues and lives out of state. Both Mrs. Pendley and Mrs. Chandler then indicated that Mrs. Pendley had additional information that to submit for consideration. The City Attorney's Office agreed to allow additional time for Mrs. Pendley to provide

information and on September 30, 2016, Mrs. Chandler submitted an "Amended Claim"[1] on behalf of Mrs. Pendley.

The amended claim states that sewer flooded the home from June 7, 2016 to June 12, 2016, and on June 21, 2016. The amended claim further states that the home is a complete loss and is "contaminated, with dangerous sewage pathogens and black mold" throughout the home. The amended claim also included a copy of a power point presentation regarding the City's Sewer Rehabilitation Program. The presentation was given by Jerry Ihler (as former Public Works Director) and Rusty Whisenhunt (as former Assistant Director of Sewer Rehab and Collections) at an American Public Works Association conference in Kansas City, Missouri in September, 2006. Either Mrs. Chandler or Mrs. Pendley made notes on the power point printout stating that a house pictured in the handout near an overflowing manhole is "Mrs. Pendley's home" and also wrote that a "DEQ representative told Mrs. Pendley that these lines were supposed to have been replaced years ago." The amended claim also included a new request to reimburse Mrs. Pendley for the contents of the home for over $24,000.00 and amended the total amount requested to $63,000.00.

RECOMMENDATION FOR DENIAL OF CLAIM: This office recommends denial of this claim for the following reasons:

1. The City of Lawton is not liable for a loss or claim resulting from an "Act of God."

On June 12, 2016, the City received rain that was between a 100 and 500 year storm event. During the rain event, the sanitary sewer system overloaded throughout the City. The sanitary sewer system was not designed to handle this amount of water and the storm event exceeded the design-storm capacity of the sanitary sewer system. There were flooding and water rescues throughout the City of Lawton during this timeframe. The Federal Emergency Management Agency (FEMA) has since issued a declaration of disaster for June 12, 2016 for the excessive rainfall that occurred in the City during this time.

During this extreme rain event on June 12, 2016, a Wastewater Collections crew responded to a sewer backup call which was recorded as an overload in the City's main on the actual pipe segment that services 1505 SW Bishop Road. The same day, the crew also recorded a main blockage due to what was thought to be debris in the line on the 3rd pipe segment below. On June 13, 2016, Wastewater Collections responded to two more calls and they recorded both of them as undetermined blockages on the 3rd pipe segment below. Wastewater Collections then set up a bypass pump and discovered a collapsed line on the third pipe segment below 1505 SW Bishop Road. Sewer Rehabilitation was notified and a crew started digging on June 15, 2016, to replace the line. While digging up the collapsed line, they found that the second pipe segment below was also holding, and called for a second crew to clear that collapse. It was then decided that they would replace the second and third pipe segments below. During the project, the crews found that the first pipe segment below was also collapsed therefore they extended the replacement project from 12th to 15th Street. During the project, pumps were set up and crews were pumping from 12th to 15th Street.

It has been determined that the cause of the collapses identified above was the excessive rain event. According to Rusty Whisenhunt, Development and Construction Manager, when the sanitary sewer system experiences overloads during extreme rain events, this causes the pipes to over pressurize and fracture, causing structural failure. In fact, the severe flooding that occurred in Lawton starting on May 5, 2015 through June 7, 2015, coupled with the flooding event that occurred on June 12, 2016, has caused structural

[1] The Amended Claim was purportedly signed by Mrs. Pendley. Mrs. Chandler also submitted a general Power of Attorney purportedly signed by Mrs. Pendley, granting Mrs. Chandler power of attorney.

damaged to 19,000 feet of sewer main lines throughout the City. The City of Lawton has since submitted funding requests to FEMA for the May 2015 and June 2016 declared disasters.

It is well established that an individual or entity is not liable for a loss or claim resulting from an "Act of God." Mulkey v. Meridian Oil, Inc., 143 F.R.D. 257 (W.D. Okla. 1992). **As defined by the Courts, an "Act of God" is some unavoidable accident which results exclusively from nature's cause, such as lightning, violent wind and flood.** Studebaker v. Cohen, 747 P.2d 274 (Okla. 1987)(emphasis added). An unavoidable accident is one which occurs without negligence on the part of either party to a claim. OUJI 2d 10.9. It is one not caused by the fault of any persons, but if the accident could have been prevented by means suggested by common prudence, it is not deemed unavoidable. Video Independent Theaters, Inc. v. Cooper, 421 P.2d 833 (Okla. 1966).

The Oklahoma Governmental Tort Claims Act, Title 51, Okla Stat., further provides in Section 155:

> The state or a political subdivision shall not be liable if a loss or claim results from:
>
> > 29. Acts or omissions done in conformance with then current recognized standards.

The City's sanitary sewer system has been designed in conformance with current, recognized standards. Therefore, the City is exempt from liability for any claim that the sanitary sewer system was not "properly designed" to handle the rain event in question. Furthermore, there is no question that the cause of the main collapses on June 12, 2016 was the excessive rainfall and not any act of negligence on the part of the City. Therefore, this claim should be denied in full.

2. Claimant's improperly designed "French drain" caused or contributed to their sewer backup.

According to Britt Hubbard, Sewer System Technical Division Construction Inspector, on June 23, 2016, when he arrived at the house to follow up on complaints made by Mrs. Pendley, he noticed hand dug trenches in the yard that led to the service clean out. No lid was on the clean out. Chris Lowe, Wastewater Collections Field Forman, also noticed the trenches and states that the resident told him that the trenches were dug to divert rainwater into the sewer service line to keep rain water from entering the house. (It should be noted that these trenches were dug prior to the rain event in question because the trenches had grass growing throughout the trenches and no freshly turned dirt.) According to both Mr. Hubbard and Mr. Lowe, and confirmed by Rusty Whisenhunt, improper, hand dug trenches *diverting rainwater into the service line* would overload the service line and cause rainwater to enter the house through the drains and the toilet. (A photograph of the improper trenches is attached hereto and marked as Exhibit "A".) Therefore, it could be proven that in addition to the excessive rainfall that caused sections of the City's main to collapse on June 12, 2016, Claimant's own negligence caused and/or contributed to the sewer backup they experienced.

Furthermore, Lawton City Code Section 22-3-2-308 (Prohibited connections – Responsibility of Property Owners) states as follows:

A. To minimize groundwater infiltration and inflow to the public sewer system that may overload and inhibit wastewater treatment, the city hereby requires that all property owners utilizing the city sanitary sewer system be responsible for the maintenance of all connections, lines and fixtures in a manner sufficiently watertight so as not to allow, and cause such to be, leakage out of or seepage into said

connections, lines and fixtures from the place of discharge to the place of connection to the publicly owned sewage system main. At the discretion of the director, such connections, lines and fixtures shall be subject to inspection and testing by the city.

B. No person shall make connection of roof downspouts or leaders, interior or exterior foundation drains, cleanouts, sump pumps, cellar, yard, area drains, cooling water discharges, drains from springs or swampy areas or other sources of surface, storm or ground water to a structure drain which is connected, whether directly or indirectly, to the city sanitary sewer system.

It is clear that Claimants' improper trench system that drains directly into their service line is a violation of this Code Section and the City should not be responsible for the harm resulting from Claimants' clear violation of City Code.

3. <u>Claimants made false statements in their amended claim.</u>

As stated above, Claimants submitted an amended claim on or about September 30, 2016. The amended claim included a copy of a power point presentation regarding the City's Sewer Rehabilitation Program. The presentation was given by Jerry Ihler (as former Public Works Director) and Rusty Whisenhunt (as former Assistant Director of Sewer Rehab and Collections) at an American Public Works Association conference in Kansas City, Missouri in September, 2006. Presumably, this power point printout was provided to show that the City has previously identified defects in its sanitary sewer system that have not been addressed and which contributed to the backup in question. Mrs. Chandler or Mrs. Pendley made notes on the power point printout stating that a house near an overflowing manhole pictured in the printout is "Mrs. Pendley's home" and also wrote that a "DEQ representative told Mrs. Pendley that these lines were supposed to have been replaced years ago."

Mr. Whisenhunt, who presented the power point in question, states that the purpose of the presentation given at the 2006 conference was to discuss Lawton's city-wide Sewer Rehabilitation Program and the Sanitary Sewer Evaluation Survey (SSES) designed to identify necessary repairs and required expansion of the City's system. The presentation further discussed the three-phase construction plan required to implement said repairs and the costs associated therewith. Although the Claimant has presented the printout in an effort to tie this presentation to their sewer backup, Mr. Whisenhunt has confirmed that the lines that collapsed on the day in question, were not even included as part of this presentation and are not on the SSES report. Mr. Whisenhunt has also confirmed that the house in the photograph is **not** Mrs. Pendley's house as alleged in the amended claim.

Also, the City Attorney's Office contacted the "DEQ representative" who allegedly told Mrs. Pendley that "these lines were supposed to have been replaced years ago." Patricia Hoyle, DEQ Environmental Programming Specialist III, confirmed that she received a complaint from the homeowners and went to the site approximately one week after the backup occurred. Ms. Hoyle stated that she could find no evidence of surfacing sewage in the yard and subsequently closed the complaint. When asked if she stated that "these lines were supposed to have been replaced years ago" – Ms. Hoyle unequivocally responded "no". There was also no evidence presented that any City worker told the Claimants that the lines "should have been replaced years ago" and the City workers all deny making such a statement. Claimants should not be allowed to benefit from false statements submitted in a claim and this Council should take note of the same.

4. <u>The City had no notice of a defect in its main.</u>

Pursuant to Title 51, Oklahoma Statutes, §151 et seq., municipalities are held accountable in the same manner as private entities or individuals for negligent acts or omissions that result in harm to others. However, negligence is never presumed, and the burden of proving negligence and that it was the proximate cause of the harm complained of, is on the complaining party. Oklahoma Ry. Co. v. Ivery, 204 P.2d 978 (Okla. 1949). **In the case of a defective water and sanitary sewer system, the Oklahoma Supreme Court has held that a complaining party does not meet his burden of proving negligence unless <u>prior notice of the defective condition, actual or constructive</u>, has been received by the entity controlling and managing the system.** City of Holdenville v. Griggs, 411 P.2d 521 (Okla. 1966). In that instance, a duty arises to abate the defect within a reasonable time. Id. at 522.

On June 28, 2007, almost nine (9) years ago, Claimants experienced a sewer backup at this same address during an extreme storm event. At that time, Wastewater Collection records showed that there were no prior main problems with the line segment that services Claimant's property but there were six (6) prior service line problems. There were also no prior main stoppages on the first pipe segment above or the first and second pipe segment below the Claimants' property. After the extreme rain event, the City repaired a collapsed segment of main three pipe segments below Claimants' residence. Due to conflicting information provided by Claimants' plumber (who was not able to provide copies of any records substantiating his information) and the subsequently discovered main collapse, the Council approved the claim upon the recommendation of the City Attorney's Office. It is believed that late Councilman Stanley Haywood informed the homeowners that they would need to install a backflow preventer after the City paid their claim.

Since that time, Wastewater Collection records indicate that the City has performed preventative maintenance on the pipe segment that services Claimants' property, and one and two pipe segments below said pipe segment.[2] Claimants experienced a service line issue on December 17, 2014, and grease was found (and cleared) from the main on January 26, 2016. None of the pipe segments are on the SSES report for replacement. Also, Claimants did not install a backflow preventer as recommended.

It is clear that Claimants expect this claim to be paid simply because the prior claim was paid. However, this office does not recommend payment of this claim for several reasons. First, although the homeowners experienced a backup almost nine (9) years ago and the City paid their claim, this factor alone is not enough to prove that the City had notice of a "defect" in its main. Not only did the backup occur almost nine (9) years ago, but the records do not show any reported backups since that time. However, the records *do show* that the City has actively performed preventative maintenance on the sewer segments that service Claimants' residence. Second, although the City found grease in the main on January 26, 2016, the grease was immediately cleared and there were no further reported problems with the main until the extreme rain event on June 12, 2016 that caused the lines to collapse. The grease in the main, which is caused by the negligence of homeowners pouring grease into their drains, would not therefore be a "defective condition" for which the City had actual or constructive notice.

KELLEA L. FISHER
ASSISTANT CITY ATTORNEY

[2] It should be noted that the records date back three (3) years.

EXHIBIT

A

ITEM NO. 3

MTG. DATE November 8, 2016

CITY COUNCIL MEETING
STAFF AGENDA ITEM COMMENTARY

ITEM TITLE: Consider approving an Outside Water Sales Contract with Shawn Owen, and authorize the Mayor and City Clerk to execute the Contract.

INITIATOR: City Attorney JVK

STAFF INFORMATION SOURCE: City Attorney

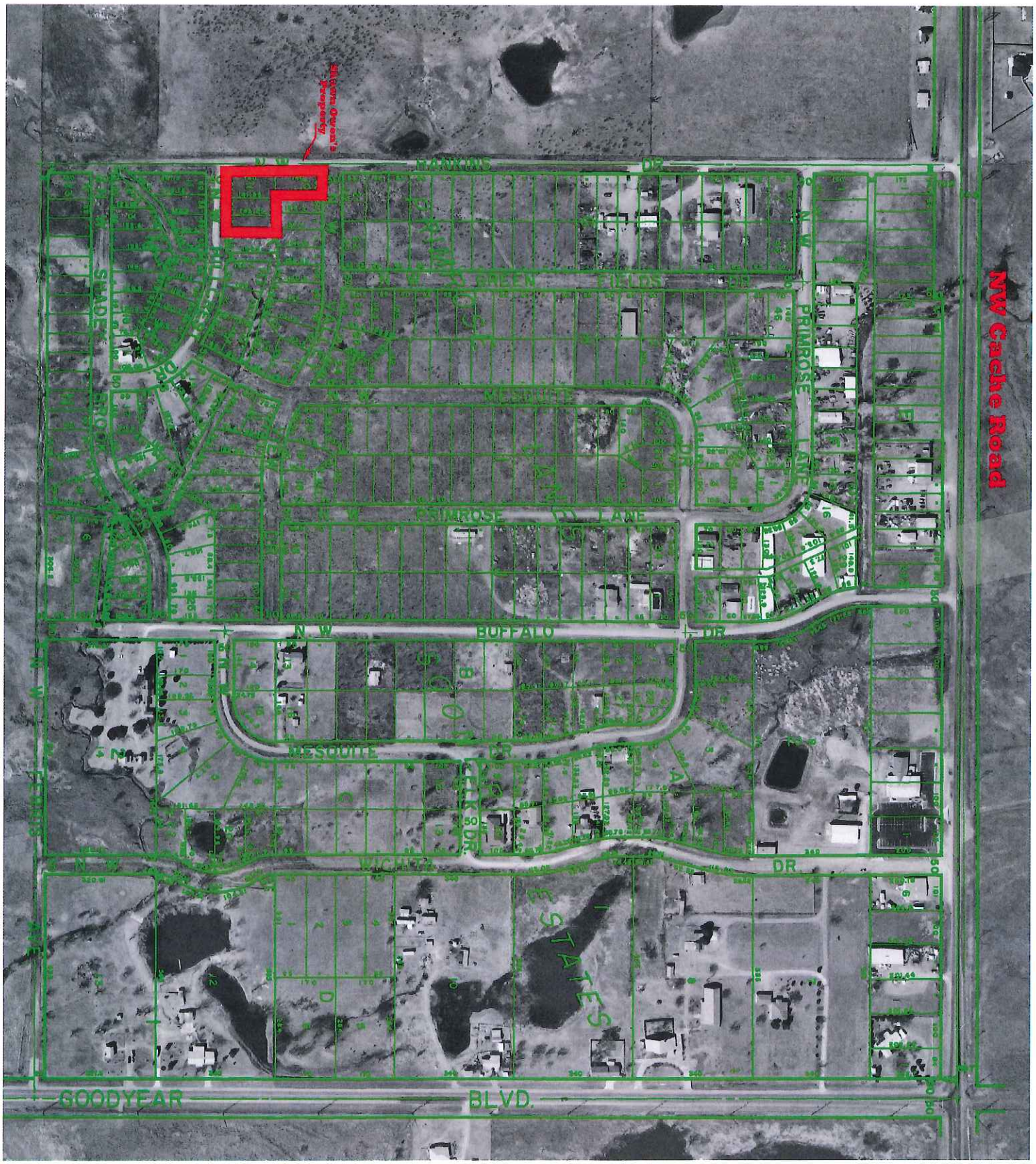
BACKGROUND: Shawn Owen has submitted an application for outside water sales. He is required to have a contract with the City of Lawton to purchase such water supplied to his property by the City. The contract would allow Shawn Owen to purchase treated water from the City of Lawton for use on property located at Lots 10, 11, 12 and 13, in Block K, in Primrose Lanes, an addition adjacent to the City of Lawton, Comanche County, Oklahoma. Shawn Owen will be responsible for any water meter installation and impact fees.

EXHIBITS: Location Map
Contract is on file in the City Clerk's Office

KEY ISSUES: N/A

FUNDING SOURCE: N/A

RECOMMENDED COUNCIL ACTION: Approve an Outside Water Sales Contract with Shawn Owen, and authorize the Mayor and City Clerk to execute the Contract.

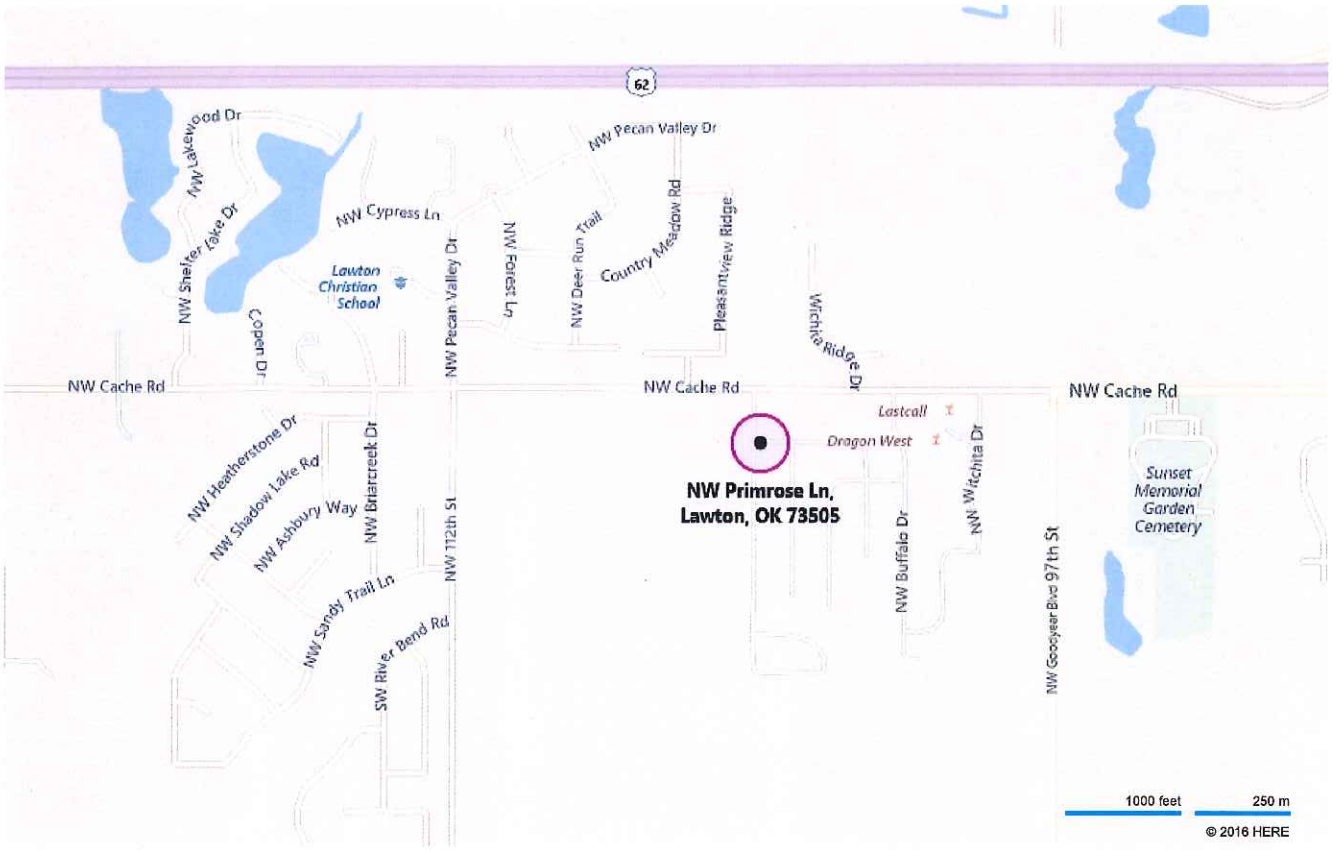


NW Cache Road
HAWKINS DR
PRIMROSE LANE
BUFFALO DR
MESQUITE DR
WICHITA DR
GOODYEAR BLVD.

bing maps

NW Primrose Ln, Lawton, OK 73505

Type your notes here.



ITEM NO. 4

MTG. DATE November 8, 2016

CITY COUNCIL MEETING
STAFF AGENDA ITEM COMMENTARY

ITEM TITLE: Consider approving an amendment to the professional services agreement with John C. Mackey Jr., to add duties of an independent investigator, and authorize the Mayor and City Clerk to execute the Agreement.

INITIATOR: City Attorney JVV

STAFF INFORMATION SOURCE: City Attorney

BACKGROUND: The City Attorney's Office wishes to amend the Agreement with John C. Mackey Jr. to add the duties of independent investigator, on an as needed basis. The Agreement includes compensation at the rate of Seventy-five and No/100 Dollars ($75.00) per hour and expires on June 30, 2017.

EXHIBITS: Proposed Amended Agreement for Professional & Legal Services on file in City Clerk's Office

KEY ISSUES: N/A

FUNDING SOURCE: Legal Services Professional Services Account

RECOMMENDED COUNCIL ACTION: Approve an Amended Agreement for Professional & Legal Services with John C. Mackey, Jr., and authorize the Mayor and City Clerk to execute the Agreement.

ITEM NO. 5

MEETING DATE November 8th, 2016

CITY COUNCIL AGENDA ITEM COMMENTARY

ITEM TITLE: Consider authorizing NFP, the City's insurance broker, to prepare a Request for Proposal (RFP) for an online benefit administration system that will provide a private exchange model allowing City of Lawton employees to choose their insurance plans.

INITIATOR: Human Resources Director

STAFF INFORMATION SOURCE: Human Resources Director

BACKGROUND: Currently the City of Lawton has one health insurance plan in which the City covers a portion of the employee's premium. However, not every employee is in the same health situation. Through this online benefits system, the City of Lawton would be able to provide a private exchange model allowing our employees to choose which benefits best suit their needs. The private exchange works very similar to an online shopping cart. Employees would have five different health plans to choose from, and instead of the City picking the plan, the City would provide the same funding ratio they do now while allowing the employee to pick the plan that meets their needs. Each employee will answer a questionnaire when signing up that addresses health history, risk, family and finances. Based on this questionnaire the system will provide recommendations on the plan that best meets their need. Plans in the exchange will vary from richness to premium cost, allowing healthy employees to not be over insured and potentially spend premium savings on other items in the exchange such as dental, vision or accident coverage.

The City's insurance broker NFP will handle the RFP process. The health committee recommended unanimously on 10/18/2016 to move forward with the private exchange.

EXHIBITS: N/A

KEY ISSUES: Is it the desire of Council to direct NFP to prepare and submit an RFP to receive proposals for an online benefits administration system for the City of Lawton?

FUNDING SOURCE: None

RECOMMENDED COUNCIL ACTION: Authorize NFP to prepare a Request for Proposal (RFP) to multiple administrators to provide the City with an online benefits administration system.

ITEM NO 6

MTG. DATE November 8, 2016

CITY COUNCIL AGENDA ITEM COMMENTARY

ITEM TITLE: Consider amending the Community Development Block Grant Fund FY 2016-2017 budget

INITIATOR: Community Development Block Grant Supervisor

STAFF INFORMATION SOURCE: Finance Director JJJ

BACKGROUND

During the budget process, the numbers used for Community Development Block Grant (CDBG fund) budgeting were estimated according to the guidance given from the U.S. Department of Housing and Urban Development on what the City of Lawton would be receiving in grants. The actual award received in July 2016 was greater than originally budgeted by $61,746.

EXHIBITS: U.S. Department of Housing & Urban Development Award letter and Funding Allocation Summary

KEY ISSUES: Does the City of Lawton wish to amend the FY 16-17 budget to increase appropriations to revenue and expenditures in the CDBG fund by $61,746.

FUNDING SOURCE: Community Development Block Grant Fund

RECOMMENDED COUNCIL ACTION: Increase the Fiscal Year 2016-2017 budgeted revenue by $61,746 and budgeted expenses by $61,746.

Funding Approval/Agreement

Title I of the Housing and Community Development Act (Public Law 930383)
HI-00515R of 20515R

U.S. Department of Housing and Urban Development
Office of Community Planning and Development
Community Development Block Grant Program

OMB Approval No. 2506-0193 (exp 5/31/2018)

1. Name of Grantee (as shown in item 5 of Standard Form 424) Lawton	3a. Grantee's 9-digit Tax ID Number 736005287	3b. Grantee's 9-digit DUNS Number 877087986
2. Grantee's Complete Address (as shown in item 5 of Standard Form 424) 212 SW 9th St Lawton, OK 73501-3944	4. Date use of funds may begin (mm/dd/yyyy) 07/01/2016	
	5a. Project/Grant No. 1 B-16-MC-40-0001	6a. Amount Approved $643,568.00
	5b. Project/Grant No. 2	6b. Amount Approved

Grant Agreement: This Grant Agreement between the Department of Housing and Urban Development (HUD) and the above named Grantee is made pursuant to the authority of Title I of the Housing and Community Development Act of 1974, as amended, (42 USC 5301 et seq.). The Grantee's submissions for Title I assistance, the HUD regulations at 24 CFR Part 570 (as now in effect and as may be amended from time to time), and this Funding Approval, including any special conditions, constitute part of the Agreement. Subject to the provisions of this Grant Agreement, HUD will make the funding assistance specified here available to the Grantee upon execution of the Agreement by the parties. The funding assistance specified in the Funding Approval may be used to pay costs incurred after the date specified in item 4 above provided the activities to which such costs are related are carried out in compliance with all applicable requirements. Pre-agreement costs may not be paid with funding assistance specified here unless they are authorized in HUD regulations or approved by waiver and listed in the special conditions to the Funding Approval. The Grantee agrees to assume all of the responsibilities for environmental review, decision making, and actions, as specified and required in regulations issued by the Secretary pursuant to Section 104(g) of Title I and published in 24 CFR Part 58. The Grantee further acknowledges its responsibility for adherence to the Agreement by sub-recipient entities to which it makes funding assistance hereunder available.

U.S. Department of Housing and Urban Development (By Name) Bill Bright		Grantee Name Lawton	
Title HUD Community Planning and Development Director		Title	
Signature Bill Bright	Date (mm/dd/yyyy) 07/22/2016	Signature	Date (mm/dd/yyyy)

7. Category of Title I Assistance for this Funding Action (check only one)
- [x] a. Entitlement, Sec 106(b)
- [ ] b. State-Administered, Sec 106(d)(1)
- [ ] c. HUD-Administered Small Cities, Sec 106(d)(2)(B)
- [ ] d. Indian CDBG Programs, Sec 106(a)(1)
- [ ] e. Surplus Urban Renewal Funds, Sec 112(b)
- [ ] f. Special Purpose Grants, Sec 107
- [ ] g. Loan Guarantee, Sec 108

8. Special Conditions (check one)
- [ ] None
- [x] Attached

9a. Date HUD Received Submission (mm/dd/yyyy)

9b. Date Grantee Notified (mm/dd/yyyy) 07/22/2016

9c. Date of Start of Program Year (mm/dd/yyyy) 07/01/2016

10. check one
- [x] a. Orig. Funding Approval
- [ ] b. Amendment Amendment Number

11. Amount of Community Development Block Grant

	FY (2016)	FY ()	FY ( )
a. Funds Reserved for this Grantee	$643,568.00		
b. Funds now being Approved	$643,568.00		
c. Reservation to be Cancelled (11a minus 11b)			

12a. Amount of Loan Guarantee Commitment now being Approved
N/A

Loan Guarantee Acceptance Provisions for Designated Agencies: The public agency hereby accepts the Grant Agreement executed by the Department of Housing and Urban Development on the above date with respect to the above grant number(s) as Grantee designated to receive loan guarantee assistance, and agrees to comply with the terms and conditions of the Agreement, applicable regulations, and other requirements of HUD now or hereafter in effect, pertaining to the assistance provided it.

12b. Name and complete Address of Public Agency
CITY OF LAWTON
212 SW 9TH STREET
LAWTON, OK 73501

12c. Name of Authorized Official for Designated Public Agency
FRED L. FITCH

Title
MAYOR, CITY OF LAWTON

Signature
N/A

HUD Accounting use Only

Batch	TAC	Program	Y	A	Reg	Area	Document No.	Project Number	Category	Amount	Effective Date (mm/dd/yyyy)	F
	153 176											
			Y					Project Number		Amount		
			Y					Project Number		Amount		

Date Entered PAS (mm/dd/yyyy)	Date Entered LOCCS (mm/dd/yyyy)	Batch Number	Transaction Code	Entered By	Verified By

Table 1
Projected FFY 2016- CDBG Funding Allocation Summary

PROJECT NUMBER	PROJECT TITLE	FUNDING REQUESTED
	ADMINISTRATION	
16-01	Community Development Administration	$128,714
	Sub-Total	**$128,714**
	HOUSING	
16-02	CDBG Housing Rehabilitation (HAD Delivery Costs) Project	$153,217
16-03	CDBG Emergency Repair (ER) Project	$75,585
16-04	CDBG Exterior Housing Improvement (EHIP) Project	$30,000
16-05	LETA Paint the City Project	$10,000
	Sub-Total	**$268,802**
	PUBLIC SERVICES	
16-06	Counseling Assistance (Christian Family Counseling) Project	$19,307
16-07	Delinquency Prevention (Teen Court) Project	$16,894
16-08	Domestic Violence Shelter (New Directions) Project	$14,480
16-09	Homeless Shelter (C. Carter Crane Homeless Shelter) Project	$12,067
16-10	Drug & Alcohol Case Management (Roadback, Inc.) Project	$13,274
16-11	Homeless Shelter (Family Promise of Lawton, Inc.) Project	$10,860
16-12	Lawton Support Services (LSS) Project	$9,653
	Sub-Total	**$96,535**
	OTHER	
16-13	Section 108 Loan Repayment Project	$149,517
	Sub-Total	**$149,517**
	GRAND TOTAL	**$643,568**

FUNDING CAPS: CDBG Entitlement Grant: $643,568 Program Income (PI)=$0 Entitlement + PI =$643,568
Adminstration Cap (20%): $128,714 Public Service Cap (15%): $96,535

ITEM NO. 7
MTG. DATE: November 8, 2016

CITY COUNCIL MEETING
STAFF AGENDA ITEM COMMENTARY

ITEM TITLE: Consider adopting a Resolution authorizing the installation and/or removal of traffic control measures on:

NE 43rd at Cache Road and on Mossy Oak Drive at NE 45th
East Gore Blvd. at Albert Johnson Sr. Ave.

INITIATOR: Public Works Director

STAFF INFORMATION SOURCE: Public Works Director

BACKGROUND: At the July 29, 2016 meeting, the Traffic Commission recommended approval of the following traffic control measures to the City Council:

1) Install 25 MPH speed limit signs on NE 43rd at Cache Road and on Mossy Oak Drive at NE 45th (**16-10**);
2) Install 20 MPH SCHOOL ZONE signs with flashing lights on East Gore Blvd. at Albert Johnson Sr. Ave. (**16-11**);

EXHIBITS: Resolution No. 16- _____
Traffic Commission Minutes and Traffic Issue Requests.

KEY ISSUES: N/A

FUNDING SOURCE: N/A

STAFF RECOMMENDED COUNCIL ACTION: Adopt Resolution No. 16-____ authorizing the installation and/or removal of traffic control measures on:

NE 43rd at Cache Road and on Mossy Oak Drive at NE 45th
East Gore Blvd. at Albert Johnson Sr. Ave.

RESOLUTION NO. 16-___

A RESOLUTION AUTHORIZING THE INSTALLATION AND/OR REMOVAL OF TRAFFIC CONTROL DEVICES AT CERTAIN DESIGNATED LOCATIONS WITHIN THE CITY OF LAWTON, OKLAHOMA.

WHEREAS, it is deemed desirable to add and/or remove traffic control devices at certain designated locations within the City of Lawton, Oklahoma; and

WHEREAS, specific provisions to regulate traffic control are contained in Chapter 23 of the City Code of the City of Lawton, Oklahoma; and

WHEREAS, it is the opinion of the City Council that the public health, safety and welfare will be preserved by adding and/or removing traffic control devices at certain designated locations within the City of Lawton, Oklahoma.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Lawton, Oklahoma that:

SECTION 1. Pursuant to the authority granted by Section(s) 23-2-201 of the City Code of the City of Lawton, Oklahoma, the following traffic control measures shall be installed and/or removed:

1) Install 25 MPH speed limit signs on NE 43rd at Cache Road and on Mossy Oak Drive at NE 45th (**16-10**);
2) Install 20 MPH SCHOOL ZONE signs with flashing lights on East Gore Blvd. at Albert Johnson Sr. Ave. (**16-11**);

PASSED and APPROVED by the Mayor and Council of the City of Lawton, Oklahoma, this 8th day of November 2016.

ATTEST:

TRACI HUSHBECK, CITY CLERK

FRED L. FITCH, MAYOR

APPROVED as to form and legality this 8th day of November 2016.

FVJ

FRANK V. JENSEN, CITY ATTORNEY

TRAFFIC ISSUE REQUEST

PUBLIC WORKS DEPARTMENT

Administrative Office

Mailing Address – 212 SW 9th Street, Lawton, OK 73501
Shipping Address – 2202 SW 3rd Street, Lawton, OK 73501
Phone (580) 581-3410 • Fax (580) 581-3421
www.cityof.lawton.ok.us

Requested by: George Rocha	**Request Number:** 16-12
Address: 4310 NE Mossy Oak Drive	**Date Request Received**: 8/23/2016
City, State, Zip: Lawton, OK	**Phone**: 915-345-5181

Request: Install 25 MPH speed limit signs on NE 43rd at Cache Road and on Mossy Oak Drive at NE 45th.

Description of Intersection / Location: local street with single-family residential dwellings. No existing speed limit signs

Accident Report Listing:

WARRANTS (MUTCD/City Code/City Policy):
Speed limit is 25 MPH unless otherwise posted per Lawton City Code. Speed limit signs are typically installed on local streets entering subdivisions from arterial roadways.

Previous Action:

Previous Traffic Commission Recommendation(s):

Previous City Council Decision(s):

Action Recommended by Staff: Install 25 MPH speed limit signs on NE 43rd at Cache Road and on Mossy Oak Drive at NE 45th.

Traffic Engineer: Larry Wolcott

Considered by Traffic Commission: 10/6/16

Considered by City Council: 11/8/16

TRAFFIC ISSUE REQUEST

PUBLIC WORKS DEPARTMENT
Administrative Office
Mailing Address – 212 SW 9th Street, Lawton, OK 73501
Shipping Address – 2202 SW 3rd Street, Lawton, OK 73501
Phone (580) 581-3410 • Fax (580) 581-3421
www.cityof.lawton.ok.us

Requested by: Mark Mattingly	**Request Number:** 16-14
Address: Lawton Public Schools	**Date Request Received**: 8/10/2016
City, State, Zip: Lawton, OK	**Phone**: 215-0225

Request: Install 20 MPH SCHOOL ZONE signs with flashing lights on East Gore Blvd at Albert Johnson Sr. Ave.

Description of Intersection / Location: arterial/local

Accident Report Listing:

WARRANTS (MUTCD/City Code/City Policy):

LCC 23-7-701 B.1: Twenty (20) miles per hour as posted on any street marked as a school zone and adjacent to any school between 8:00 A.M. and 4:00 P.M. on days when school is in session, except as otherwise required by state authority. However, the city manager subject to direction of council may establish other effective hours for a school zone.

Some students are now using LATS to travel to school and are being dropped off on the south side of Gore Blvd. This causes students to have to cross Gore as they arrive for school.

Previous Action: Reinstalled school zone signs on Albert Johnson Sr. Ave.

Previous Traffic Commission Recommendation(s): Reinstall school zone signs on Albert Johnson Sr. Ave.

Previous City Council Decision(s): Reinstall school zone signs on Albert Johnson Sr. Ave.

Action Recommended by Staff: Approve the request to install 20 MPH SCHOOL ZONE signs with flashing lights on East Gore Blvd at Albert Johnson Sr. Ave.

Traffic Engineer: Larry Wolcott

Considered by Traffic Commission: 10/6/16

Considered by City Council: 11/8/16

ITEM NO. 8
MTG. DATE: November 8, 2016

CITY COUNCIL MEETING
STAFF AGENDA ITEM COMMENTARY

ITEM TITLE: Consider accepting a grant from the Federal Emergency Management Agency (FEMA) Hazard Mitigation Grant Program (HMGP) in the amount of $89,611.20 for acquisition and demolition of flood-prone properties located at 906 SW 9th, 908 SW 9th, and 810 SW I Ave.

INITIATOR: Public Works Director

STAFF INFORMATION SOURCE: Public Works Director

BACKGROUND: The FEMA Hazard Mitigation Grant Program (HMGP) provides grants to states and local governments to implement long-term hazard mitigation measures. The purpose of the HMGP is to reduce the loss of life and property due to natural disaster.

The acquisition of flood-prone property can be an effective way to move people and property away from high-risk areas. Acquisition projects funded through the HMGP are voluntary and homeowners are never forced to sell their property. Once an acquisition project is approved by the state and FEMA, the community uses Federal funds to purchase the home or building, and the land is restricted to open space, recreation, or wetlands in perpetuity.

This acquisition grant would be used toward purchase of three flood prone properties in the Numu Creek Watershed located at 906 SW 9th, 908 SW 9th, and 810 SW I Ave. Acquisition of flood-prone properties is one of the 47 mitigation projects identified in the FEMA approved City of Lawton 2012 All Hazard Mitigation Plan.

EXHIBITS: Grant award letter, Hazard Mitigation Assistance Grant Agreement

KEY ISSUES: The FEMA approved City of Lawton 2012 All Hazard Mitigation Plan set a goal of acquiring two flood-prone properties by 2017.

FUNDING SOURCE: Federal Emergency Management Agency (FEMA) Hazard Mitigation Grant Program (HMGP) 75% and City of Lawton Stormwater Management and Drainage Maintenance Divisions 25% through in-kind services.

RECOMMENDED COUNCIL ACTION: Accept a grant from the Federal Emergency Management Agency (FEMA) Hazard Mitigation Grant Program (HMGP) in the amount of $89,611.20 for acquisition and demolition of flood-prone properties located at 906 SW 9th, 908 SW 9th, and 810 SW I Ave.

Albert Ashwood
State Director

Mary Fallin
Governor

State of Oklahoma
Department of Emergency Management

August 12, 2016

Ms. Cynthia Williams
City of Lawton
Environmental Specialist
212 N W 9th Street
Lawton, OK 73501

Reference: PDMC-PJ-06-OK-2015-001

Dear Ms. Williams:

We are pleased to announce the approval by FEMA Region VI of funds for the above-referenced project. Federal funding for this project in the amount of $89,611.20 is available through the PDMC-PJ-06-OK-2015-001. Congratulations, you may now start your project!

As indicated on the attached State and Local Agreement, you have three years from the FEMA approval date August 4, 2016, to complete your project and close out of your project at OEM and FEMA Region VI. Please sign page three and return all three pages of the enclosed State and Local Agreement to this office as soon as possible, but no later than August 31, 2016, keeping a copy for your files. Retain all other documents for your files. Please note, you cannot draw any funding without signing and returning all three pages of the above referenced agreement.

As the work progresses on this project, FEMA requires that you provide this office with project progression electronically every quarter until this project is completed and closed out.

- The first Status Report is due, October 10, 2016, for the 4th Quarter of 2016. Quarterly Progress Reports should explain in detail what work has been completed thus far and identify the anticipated date the project will be completed.
- Also, use this document to inform us of any significant events, delays, or anticipated problems. The detailed records of man-hours, equipment-hours, supplies and materials, etc., should be maintained on file at your office for your use and for audit purposes.
    - For informational purposes, the following is supplied:
    - 1st Quarter (Oct, Nov, Dec) Report due Jan 10;
    - 2nd Quarter (Jan, Feb, Mar) Report due April 10;
    - 3rd Quarter (Apr, May, June) Report due Jul 10; and
    - 4th Quarter (Jul, Aug, Sep) Report due Oct 10.

Please send your e-mail address to annie.vest@oem.ok.gov and we will forward an electronic Quarterly Report prior to the submission deadline.

P.O. BOX 53365 • OKLAHOMA CITY, OK 73152-3365 • 2401 N. LINCOLN (Will Rogers Building Tunnel) • OKLAHOMA CITY, OK 73105
405-521-2481 • FAX 405-521-4053 • www.oem.ok.gov

OEM Oklahoma Emergency Management

The detailed records of man-hours, equipment-hours, supplies and materials, etc., must be maintained on file at your office for your use and audit purposes. These documents must coincide with the Cost Estimate Line-Item Budget submitted in the project application. You may request a reimbursement payment prior to project completion.

- Requests addressed to this office must include appropriate invoices to substantiate amount requests and fall under the Line-Item Budget Categories.
- You must also document your 25% local match used during the quarter. Please limit your requests to once a quarter or approximately 20% of the project, except in the most unusual circumstances.
- Only 75% of the federal share will be disbursed with the remaining 25% held until project completion and close-out.

When this project is completed, forward a letter stating that the work is complete and a request to close the project. We will establish a close-out audit date.

- Please ensure you have all applicable documentation relating to the expenditure of the 75% federal share of funds and the 25% local share of funds available for review.
- All documentation must coincide with the above-referenced Line-Item Budget.
- All remaining monies will be mailed to you after the close-out audit.

Thank you for taking this initiative to maintain a mitigation process that will result in a safer community/county.

If you have questions regarding this project, please contact Linda Adams, Hazard Mitigation Supervisor at (405) 521-3110 or by email at linda.adams@oem.ok.gov.

Sincerely,

ALBERT ASHWOOD
Director

Enclosures: State and Local Agreement

COPY

STATE-LOCAL HAZARD MITIGATION ASSISTANCE AGREEMENT

PDMC-PJ-06-OK-2015-001

City of Lawton Acquisition

This agreement between the State of Oklahoma (the Recipient) and the City of Lawton the Sub-recipient) shall be effective the date FEMA approves the Hazard Mitigation Assistance award. It shall apply to all assistance funds provided by or through the Recipient to the Sub-recipient as a result of an approved Hazard Mitigation Assistance award.

The designated representative of the Sub-recipient certifies that:

I. He/She has legal authority to apply for assistance on behalf of the Sub-recipient.

II. The Sub-recipient will provide all necessary financial and managerial resources to meet the terms and conditions of receiving Federal and State disaster assistance.

III. The Sub-recipient is aware that limited funding available for mitigation requires cost-sharing on the basis of 75 percent Federal and 25 percent non-Federal contributions and that the applicant will be required to provide the full non-Federal share for such mitigation activities.

IV. The local cost-share (non-Federal) funding will be made available by the Sub-recipient in accordance with the approved Hazard Mitigation Assistance sub-award.

V. The Sub-recipient will establish and maintain a proper accounting system to record expenditures of Hazard Mitigation Assistance funds in accordance with generally accepted accounting standards or as directed by the Governor's Authorized Representative.

VI. The project funds will be provided to the Sub-recipient by the Recipient on a reimbursable basis. Funds for work completed, or phases of the work completed as approved by the Recipient, will be forwarded to the Sub-recipient after the Sub-recipient provides to the Recipient documentation that justifies payment.

VII. The Sub-recipient will give Recipient and Federal agencies designated by the Governor's Authorized Representative access to and the right to examine all records and documents related to use of disaster assistance funds.

RECEIVED

SEP 12 2016

OKLAHOMA
EMERG. MGMT.

VIII. The Sub-recipient will return to the Recipient, within 15 days of such a request by the Governor's Authorized Representative, any advance funds which are not supported by audit or other Federal or State review of documentation maintained by the Sub-recipient.

IX. The Sub-recipient will comply with all applicable codes and standards as it pertains to this project and agrees to provide maintenance as appropriate.

X. The Sub-recipient will comply with all applicable provision of Federal and State laws and regulations in regard to procurement of goods and services.

XI. The Sub-recipient will not begin work until the project application is approved, and the Sub-recipient will complete all items of work within the time period of the approved grant, unless an exception is approved by the Governor's Authorized Representative to extend the time frame.

XII. The Sub-recipient will comply with all Federal and State statutes and regulations relating to non-discrimination.

XIII. The Sub-recipient will comply with provisions of the Hatch Act limiting the political activities of public employees.

XIV. The Sub-recipient will comply, as applicable, with provisions of the Davis-Bacon Act relating to labor standards.

XV. The Sub-recipient will comply with the National Flood Insurance Program requirements.

XVI. The Sub-recipient will not enter into cost-plus-percentage-of- cost contracts for completion of Hazard Mitigation Assistance projects.

XVII. The Sub-recipient will not enter into contracts for which payment is contingent upon receipt of State or Federal funds.

XVIII. The Sub-recipient will not enter into any contract with any party that is debarred or suspended from participating in Federal assistance programs.

XIX. The Sub-recipient is encouraged to use 2 CFR 200 and 44 CFR to answer questions related to management of Federal and local funds

XX. The Sub-recipient will submit quarterly reports clearly indicating actions completed during the quarter to Oklahoma Department of Emergency Management, no later than the 10th of the month following the end of each quarter. The

significant report dates are: 1st Quarter (Oct, Nov, Dec) - due by January 10; 2nd Quarter (Jan, Feb, Mar) - due by April 10; 3rd Quarter (Apr, May, Jun) - due by July 10; 4th Quarter (Jul, Aug, Sep) - due by October 10

XXI. The Sub-recipient will complete all items of work by August 4, 2019 to include State close out procedures and FEMA Region VI close out.

Signed for the Sub-recipient:

Name: Jerry Ihler Title: City Manager

Signature: Jerry Ihler Date: 9-7-16

Signed for the Recipient:

Name: ALBERT ASHWOOD Title: Governor's Authorized Representative

Signature: Date: 9/16/16

ITEM NO. 9

MEETING DATE November 8, 2016

CITY COUNCIL MEETING
STAFF AGENDA ITEM COMMENTARY

ITEM TITLE: Consider approving an agreement and payment of $1,800.00 to Mr. Robert Arbuckle for the replacement of a portion of the residential driveway located at 6819 NW Crestwood Dr., which was demolished in the course of completing a city waterline repair.

INITIATOR: Public Works Director

STAFF INFORMATION SOURCE: Director of Water/Wastewater
Street & Traffic Superintendent

BACKGROUND: The City of Lawton Water Distribution Division replaced a segment of the city's water main on NW Crestwood Dr. As part of this repair, the city had to remove a section of driveway at 6819 NW Crestwood Dr. The city is obligated to restore the 180 square feet of the driveway that was removed during the water main repair. Mr. Arbuckle has requested authority to replace this portion of the driveway and receive reimbursement from the City. The City of Lawton Street Division agrees that Mr. Arbuckles's request is reasonable and is based upon only that portion of cost which is the city's responsibility to replace. This agreement will authorize city staff to release payment to Mr. Arbuckle in the amount of $1,800.00 upon full execution of the proposed agreement.

EXHIBITS: Proposed agreement between the City of Lawton and Mr. Arbuckle

KEY ISSUES: N/A

FUNDING SOURCE: Street Division 211 Account

RECOMMENDED COUNCIL ACTION: Approve the agreement with Mr. Robert Arbuckle, authorize the Mayor and City Clerk to execute the agreement, and authorize payment of $1,800.00.

AGREEMENT

This AGREEMENT is made and entered this _____ day of _____, 2016, by and between the City of Lawton, Oklahoma, a Municipal Corporation, hereinafter referred to as "the CITY" and Robert Arbuckle, 6819 NW Crestwood Dr., Lawton, Oklahoma 73505, hereinafter referred to as "the CITIZEN".

WITNESSETH

WHEREAS, the CITY damaged 180 square feet of the CITIZEN's driveway and sidewalk located at 6819 NW Crestwood Dr. as shown on Exhibit "A", which is attached hereto and made part of this Agreement, during a water line repair/replacement project, which the CITY is prepared to pay to replace; and

WHEREAS, the CITIZEN has requested authority to remove and replace 180 square feet of said driveway and sidewalk, provided the CITY reimburses CITIZEN the amount of its estimated cost to replace 180 square feet of the driveway and sidewalk if undertaken by the CITY using in-house resources; and

WHEREAS, the CITY will benefit by the proposed project and has the necessary funds to pay its estimated in-house cost of said project but is not presently able to undertake the project itself due to existing project commitments with higher priorities in other areas of the CITY; and

WHEREAS, the CITIZEN understands that by undertaking the project himself the overall costs will likely exceed the estimated in-house costs of the CITY but is willing to assume that risk provided the CITY agrees to waive any and all permitting and landfill dumping fees required or resulting from this Agreement; and

WHEREAS, the CITY and CITIZEN are in agreement that the CITY'S estimated in house costs to remove and replace 180 square feet driveway and sidewalk is ONE THOUSAND EIGHT HUNDRED DOLLARS ($1,800.00); and

WHEREAS, in consideration of the right to undertake the project with the fee waivers authorized herein, the CITIZEN is willing to accept ONE THOUSAND EIGHT HUNDRED DOLLARS ($1,800.00) as the CITY'S total cost share to complete the project; and

WHEREAS, the CITIZEN understands and acknowledges that said ONE THOUSAND EIGHT HUNDRED DOLLARS ($1,800.00) shall only become due and payable by the CITY after the project has been inspected by the Superintendent of the Street Division for the CITY and determined to satisfactorily meet all applicable standards set forth in Lawton City Code.

NOW THEREFORE, in consideration of the covenants, agreements and representations herein set forth, it is mutually agreed by the CITY and the CITIZEN as follows, to wit:

1. That the CITIZEN shall be responsible for and shall remove and replace 180 square feet of driveway and sidewalk located at 6819 NW Crestwood Dr. as shown on Exhibit A in accordance with all the provisions of Lawton City Code and acceptable concrete industry standards.

2. That CITIZEN acknowledges and agrees that all the rights, duties and obligations of CITIZEN as set forth in this Agreement shall extend to any contractors or subcontractors hired on behalf of CITIZEN to complete any portion of the project described herein. CITIZEN agrees to apprise any and all contractors and subcontractors of said rights, duties and obligations and further acknowledges that should said contractors or subcontractors fail to meet the duties and obligations set forth herein, it shall relieve CITY of its obligation to pay its portion of the project costs as previously set forth herein.

3. That CITIZEN shall obtain any necessary permits from the CITY's License and Permit Center prior to commencing any work. All work shall be accomplished within ten (10) working days of the date of issue for the permit; however, the CITY acting through the Superintendent of the Street Division may grant extensions if necessary and reasonable.

4. That in consideration of the duties and obligations undertaken by CITIZEN herein, the CITY hereby agrees to waive any required permit and landfill dumping fees required or resulting from this Agreement.

5. That the CITIZEN shall ensure the work is prosecuted regularly, diligently, and uninterruptedly at such rate of progress as will ensure full completion thereof within the time specified. It is expressly understood and agreed by and between the CITIZEN and the CITY that the time for completion of the work described herein is a reasonable time for the completion of the same taking into consideration the average climatic range prevailing in this locality. Days of inclement weather shall not count against the work schedule deadline.

6. That should the CITIZEN or contractors acting on his behalf fail to timely complete any of CITIZEN'S obligations in the manner as set forth in this Agreement, the CITY shall be relieved of the obligation to pay to the CITIZEN the sum of ONE THOUSAND EIGHT HUNDRED DOLLARS ($1,800.00). In the event CITIZEN'S incomplete work causes the CITY to have to complete the project which results in costs to the CITY in excess of the sum of ONE THOUSAND EIGHT HUNDRED DOLLARS ($1,800.00), the CITIZEN agrees to compensate the CITY for those additional costs necessitated by the incomplete nature of CITIZEN'S work.

7. That the CITIZEN shall ensure that any party performing work on the project pursuant to this Agreement shall comply with the Oklahoma Workers' Compensation Law and file a copy of his Worker`s Compensation Insurance Policy, or, if a self-insurer, a copy of the Industrial Commission`s Order of Authorization with the City.

8. That the CITIZEN shall ensure that any party performing work pursuant to this Agreement shall procure and maintain during the life of this agreement insurance of the types and in minimum amounts as follows:

Worker's Compensation in full compliance with statutory requirements of Federal and State of Oklahoma law and Employer's Liability coverage in the amount of $500,000.

Comprehensive General Liability and Bodily Injury:

Bodily Injury	$ 125,000 each occurrence
Property Damage	$ 100,000 each occurrence
Combined Single Limit	$1,000,000 aggregate

Comprehensive Automobile:

Liability, Bodily Injury	$ 125,000 each occurrence
Property Damage	$ 100,000 each occurrence
Combined Single Limit	$1,000,000 aggregate

A certificate evidencing such insurance shall be furnished to the CITY by CITIZEN and shall contain the following statement: "The insurance evidenced by this certificate will not be canceled or altered except after ten (10) days from receipt by the CITY of written notice thereof." Should the insurance outlined above lapse or be canceled for any reason, and the CITIZEN fails to procure additional insurance, the CITY may terminate this Agreement immediately, all work on the project shall stop, and CITY shall be relieved of its obligation to pay to the CITIZEN as set forth herein.

9. That the CITIZEN shall defend at his own expense any and all suits, action or actions, claim or claims for damages which are instituted against CITIZEN or the CITY for any loss, cost, expense or damage resulting from the repairs, including but not limited to, the manner in which any cut or excavation is made or any work done in connection with the cut or excavation;

10. That the CITIZEN shall indemnify and hold the CITY harmless against any and all loss or liability that CITIZEN or others may suffer as a result of the work contemplated herein, including the negligence of any contractors or subcontractors undertaking work pursuant to agreements between themselves and the CITIZEN;

11. That the CITIZEN acknowledges he/she is not an employee or agent of the CITY but an independent party acting as an independent contractor under the terms of this Agreement. CITIZEN shall not be covered by any insurance or other benefits from the City of Lawton.

12. That in undertaking any work pursuant to this agreement the CITIZEN shall be responsible for complying with all provisions of Lawton City Code and shall further comply with all requirements of the Oklahoma Underground Facilities Prevention Act, Title 63 § 142.1 et seq., commonly referred to as the Oklahoma One-Call System, Dial 811 or 1-800-522-OKIE.

13. That the CITIZEN shall be responsible for any CITIZEN or contractor caused damage to utility and/or service lines. Repairs shall be coordinated with the affected utility consistent with the requirements of the Oklahoma Underground Facilities Prevention Act. Damages shall be repaired or replaced at no cost to CITY.

14. That the CITIZEN shall erect or cause to be erected traffic-control devices designed to notify vehicular traffic of any obstructions or hazards associated with the project area and shall utilize such devices to safely move traffic around said hazards and obstructions. Control devices shall, as far as practical, be in compliance with the guidelines as published in the manual on uniform traffic-control devices. A notice of closure will be submitted at least two (2) business days in advance of the street closure to the City Engineer. The notice of closure shall specify the purpose of the closure, the location, the planned duration and the hours of the day during which the street will be closed. The closure shall be scheduled to minimize interference with vehicular and pedestrian traffic. The City Engineer shall notify emergency personnel, which shall include the fire department, police department and ambulance service company, of street closures. In the event that any street closing needs to be extended beyond what was originally published in the notice, the CITIZEN shall be responsible for notifying the City Engineer of the number of additional days required so emergency personnel are kept informed as necessary.

15. That the CITIZEN shall take special care not to damage any trees, shrubs, landscaping, sheds or other structures located on existing easements. Any CITIZEN or contractor caused damage, shall be repaired or replaced at no cost to CITY and shall be accomplished by a contractor or subcontractor as approved by the City Engineer.

16. That the CITIZEN shall be responsible for the making, backfilling and repairing of any cuts or excavations associated with the project, which shall be done in compliance with the requirements of this section and other ordinances of the CITY, and to the satisfaction of the City Engineer. Requirements include the following:

A. General design standards set forth herein are minimum standards. Specific pavement thickness design standards for streets in residential, commercial and industrial subdivisions shall follow the latest revision of the CITY "Modified American Association of State Highway and Transportation Officials (AASHTO) Low-Volume Road Design Standards," standard details for street improvements established by the City Engineer and other design criteria as adopted by the CITY. All other streets, including major and minor arterials, shall follow the latest revision of the "American Association of State Highway and Transportation Officials (AASHTO) Guide for Design of Pavement Structures," standard details for street improvements established by the City Engineer and other design criteria as adopted by the CITY.

B. All street, curb and gutter construction shall be in accordance with the applicable sections of the City of Lawton Standard Details for Subdivision Streets and appropriate methods in the latest revision of the Standard Specifications for

Highway Construction as prepared by the Oklahoma Department of Transportation and modifications as established by the City Engineer.

C. All asphalt and concrete street cuts for trench excavations shall be repaired in accordance with Figure 1 of article 20-2 of the Lawton City Code. All asphalt alley cuts shall be repaired in accordance with Figure 1, except that the concrete requirement shall be deleted and the repaired section shall be surfaced with asphalt to the thickness of the existing section but not less than four (4) inches. All street cuts for other than trench excavations shall be repaired in accordance with CITY street standards. Arterial streets shall be repaired utilizing a typical section equal to the existing pavement or, as a minimum, in accordance with CITY street standards.

D. Any work undertaken must comply with the requirements of the Americans with Disabilities Act (ADA) and its implementing regulations where applicable. Any work undertaken that is not compliant with ADA regulations and standards shall relieve the CITY of its obligation to reimburse CITIZEN as set forth herein unless the same is corrected by CITIZEN.

17. That the CITIZEN shall level all disturbed residential or commercial yard areas with topsoil and hand-rake to a uniform appearance that provides adequate drainage. Upon completion of the backfilling or repairing of any cut or excavation, all building material and debris resulting from the work shall be removed from the street, alley, sidewalk or other public place where the work is done. Any surplus excavation shall become the property of the CITIZEN. Disposal of surplus excavation shall be the CITIZEN'S responsibility.

18. That the CITIZEN shall notify the Superintendent of the Street Division for the CITY upon the completion of the entire replacement of the driveway and sidewalk, and upon receipt of said notification, the CITY shall inspect the same.

19. That the CITIZEN acknowledges, understands, and hereby agrees the CITY's inspection shall be limited to securing adequate assurances that the work was completed in a timely manner in accordance with Lawton City Code and acceptable concrete industry standards, but the same shall in no way constitute any warranty as to quality or longevity of any work performed.

20. That upon the approval by the Superintendent of the Street Division for the CITY that the entire driveway and sidewalk replacement has been completed by the CITIZEN in accordance with Lawton City Code within the time frame herein set forth, and that the quality of said work meets acceptable concrete industry standards, the CITY shall release and pay to the CITIZEN the sum of ONE THOUSAND EIGHT HUNDRED DOLLARS ($1,800.00).

<Signature Page Follows>

WITNESS our hands this _____ day of _____, 2016.

CITIZEN

_____
Robert Arbuckle

THE CITY OF LAWTON, OKLAHOMA
A Municipal Corporation

_____
Fred L. Fitch, MAYOR

ATTEST:

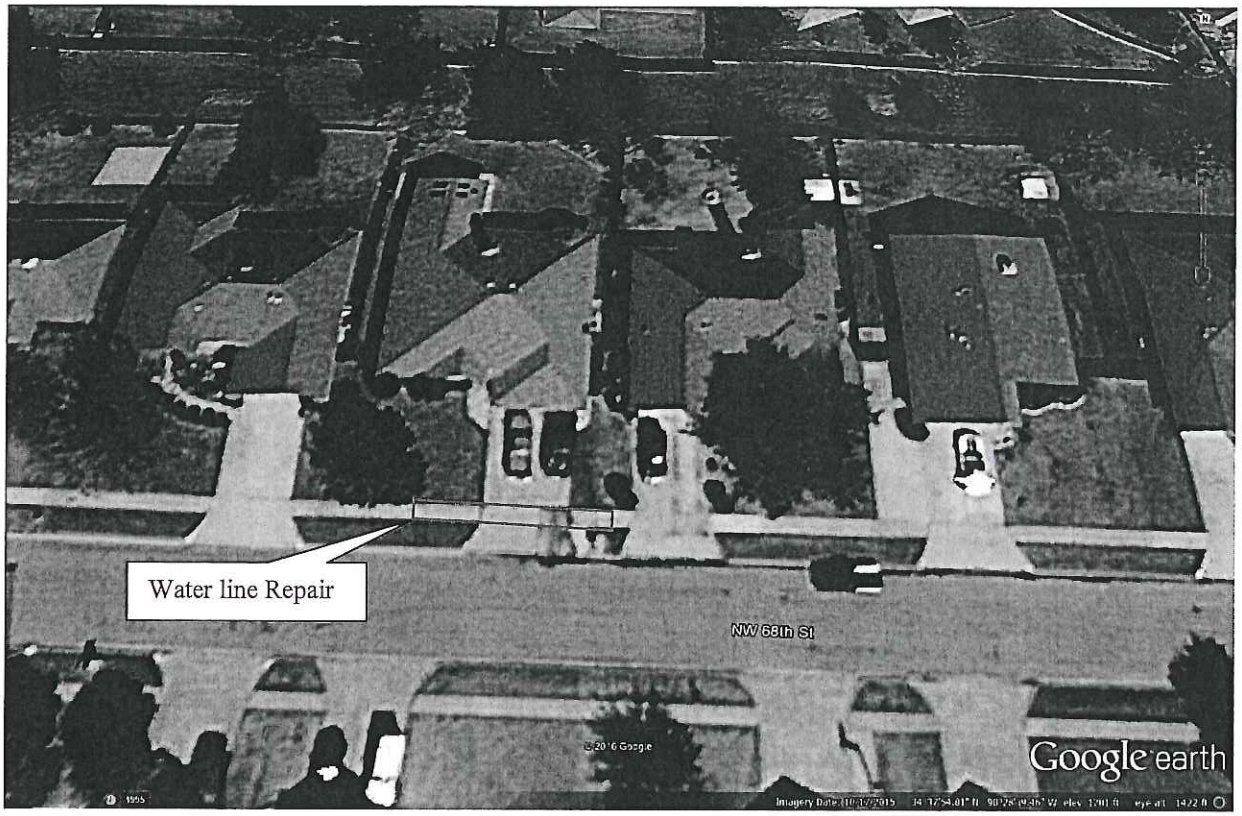
_____
Traci Hushbeck, City Clerk

Approved as to form and legality this 20 day of October, 2016.

FJ

_____
Frank Jensen, City Attorney

Exhibit "A"



ITEM NO. 10
MTG. DATE: November 8, 2016

CITY COUNCIL MEETING
STAFF AGENDA ITEM COMMENTARY

ITEM TITLE: Consider adopting the 2016 City of Lawton Stormwater Management Plan (SWMP).

INITIATOR: Public Works Director

STAFF INFORMATION SOURCE: Public Works Director

BACKGROUND: The Oklahoma Department of Environmental Quality (DEQ) issues "Small Municipal Separate Storm Sewer System (MS4) General Permit OKR04 for Stormwater Discharges within the State Of Oklahoma" to address water quality. Lawton applied for a MS4 general permit renewal in January 2016.

DEQ general permits rely on permittees to certify that they meet the eligibility conditions and implement requirements that will ensure compliance with the conditions of the permit. Those covered under the general permit select, implement, and maintain best management practices (BMPs) for their Stormwater Management Plan (SWMP) that will reduce the discharge of pollutants and effectively control pollutant discharges from the MS4.

The SWMP is a document prepared by the city to address the regulatory application requirements. The document is intended as a functioning mechanism for the city's use. Upon permit renewal, previously permit holders are required to review and revise their SWMP as needed to meet the requirements of the new permit.

EXHIBITS: Stormwater Management Plan on file in the City Clerk's Office

KEY ISSUES: None

FUNDING SOURCE: NA

RECOMMENDED COUNCIL ACTION: Adopt the 2016 City of Lawton Stormwater Management Plan (SWMP).

ITEM NO. 11
MTG. DATE: November 8, 2016

CITY COUNCIL MEETING
STAFF AGENDA ITEM COMMENTARY

ITEM TITLE: Consider approving plans and specifications for the Elmer Thomas Park Splash Pad Project, Project No. 2016-01 and authorizing staff to advertise for bids.

INITIATOR: City Engineer

STAFF INFORMATION SOURCE: City Engineer

BACKGROUND: Parks and Recreation Department has requested the development of plans for the construction of a splash pad in the Elmer Thomas Park area. Plans and specifications have been prepared by the Engineering Department for the construction of the splash pad. The contract time for the project is specified as 90 calendar days. The estimated cost of the project is in the $300,000-$450,000 range.

EXHIBITS: Plans and specifications are on file in the Engineering Department office.

KEY ISSUES: None

FUNDING SOURCE: 2015 Tax Extension Acct No. 093-0097-000-00-03331131

STAFF RECOMMENDED COUNCIL ACTION: Approve plans and specifications for the Elmer Thomas Park Splash Pad Project, Project No. 2016-01 and authorize staff to advertise for bids.

ITEM NO. 12

MEETING DATE November 8, 2016

CITY COUNCIL AGENDA ITEM COMMENTARY

ITEM TITLE: Consider approving appointments to boards and commissions.

INITIATOR: Mayor Fred L. Fitch

STAFF INFORMATION SOURCE: N/A

BACKGROUND: On October 21, 2016 and October 27, 2016 the City Council received a list of appointees recommended for appointment to various boards and commissions. It is recommended that the persons nominated as shown on the exhibit attached hereto be approved for appointment to the following boards and commissions.

Airport Authority
Ed Peterson
8231 NW Stonebridge
Lawton, Oklahoma 73505
12/31/2019

Sam Firman
709 SW B Avenue
Lawton, Oklahoma 73501
12/31/2019

Citizens' Committee On Capital Improvement Program (CIP)
Rick Flores
2316 NE Garden Lane
Lawton, Oklahoma 73507
11/08/19

EXHIBITS: None

KEY ISSUES: N/A

FUNDING SOURCE: N/A

RECOMMENDED COUNCIL ACTION: Approve the appointment of the persons to boards and commissions.

City Planning Commission
David Davison
3721 NE Eastlake Drive
Lawton, Oklahoma 73507
12/14/2019

Historical Preservation Commission
Dr. Suzanne Crawford
Professional Historian
3320 Atlanta
Lawton, Oklahoma 73505
12/14/18

BUSINESS ITEMS

ITEM NO. 14
MTG. DATE November 8, 2016

CITY COUNCIL MEETING
STAFF AGENDA ITEM COMMENTARY

ITEM TITLE: Consider an ordinance amending Section 10-4-402, Article 10-4, Chapter 10, Lawton City Code, 2015, relating to the disposition of personal property in the possession of the Chief of Police, by amending the notice requirements for potential property owners to match those required by state law; providing for severability and establishing an effective date.

INITIATOR: City Attorney KF for FJ

STAFF INFORMATION SOURCE: Assistant City Attorney

BACKGROUND: The Chief of Police may dispose of unclaimed personal property, money, or legal tender in his possession by following the procedures set forth in Article 10-4 of the City Code. This process includes filing an application with the District Court, setting a hearing, and notifying potential property owners of the hearing to allow them the opportunity to reclaim their property. The procedures set forth in Article 10-4 are also required by state statute Title 11 Section 34-104.

The current ordinance requires notice of the hearing to be sent by first class mail to property owners where the property has an actual or apparent value of more than one-hundred dollars ($100.00). The state statute has been amended to require notice by first class mail to property owners where the property has an actual or apparent value of more than two-hundred fifty dollars ($250.00). This amendment will make the ordinance match the state statute. When the Chief of Police and the City Attorney's Office undertake this process, there are often hundreds of property items and thus hundreds of potential owners that must be notified. The new notice requirements should reduce administrative mailing costs associated with the process.

EXHIBITS: Ordinance 16-____

KEY ISSUES: N/A

FUNDING SOURCE: N/A

RECOMMENDED COUNCIL ACTION: Adopt Ordinance 16-_____, waive the reading of the ordinance, and read the title only, and establish an effective date.

ORDINANCE NO. 16 - _____

AN ORDINANCE AMENDING SECTION 10-4-402, ARTICLE 10-4, CHAPTER 10, LAWTON CITY CODE, 2015, RELATING TO THE DISPOSITION OF PERSONAL PROPERTY IN THE POSSESSION OF THE CHIEF OF POLICE, BY AMENDING THE NOTICE REQUIREMENTS FOR POTENTIAL PROPERTY OWNERS TO MATCH THOSE REQURIED BY STATE LAW, PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Lawton, Oklahoma, that:

Section 1. Section 10-4-402 is hereby amended to read as follows:

Article 10-4 – UNCLAIMED AND SURPLUS PROPERTY

Section 10-4-402 - Disposition of personal property—General procedures.

***

C. In any instance where the property has an actual or apparent value of more than ~~one hundred dollars ($100.00)~~ two hundred fifty dollars ($250.00), at least ten (10) days prior to the date of the hearing, written notice of the hearing shall be sent by first-class mail, postage prepaid, to each owner at his address as listed in the application. If the owner of any property with an actual or apparent value exceeding five hundred dollars ($500.00) is unable to be served written notice by first-class mail, notice shall be provided by one publication in a newspaper of general circulation in the county where the property is in custody. The notice shall contain a brief description of the property of the owner and the place and date of the hearing. The notice shall be posted at the assigned place for the posting of city notices, and at two (2) other public places in the city.

***

Section 2. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion of this ordinance.

Section 8. Effective Date. The provisions of this ordinance shall become effective thirty days after the date of the ordinance's passage.

ADOPTED and APPROVED by the Council of the City of Lawton, Oklahoma this ____ day of November, 2016.

_____

FRED L. FITCH, MAYOR

ATTEST:

_____

TRACI L. HUSHBECK, CITY CLERK

APPROVED as to form and legality this _____ day of November, 2016.

for

FRANK V. JENSEN, CITY ATTORNEY

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
OCTOBER 25, 2016 – 6:00 P.M.
LAWTON CITY HALL
COUNCIL CHAMBERS/AUDITORIUM

Fred L. Fitch, Mayor
Presiding

Also Present:
Jerry Ihler, City Manager
Frank V. Jensen, City Attorney
Traci Hushbeck, City Clerk

Mayor Fitch called the meeting to order at 6:16 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Pastor Byron Elmore, Calvary Assembly of God, 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
V. Gay McGahee, Ward Seven
Doug Wells, Ward Eight

ABSENT: None

PRESENTATION OF OUTSTANDING CITIZEN OF COMANCHE COUNTY TO AMY EWING-HOLMSTROM

Mayor Fitch presented a Certificate of Commendation from the Mayor's Office to Amy Ewing-Holmstrom

EMPLOYEE SPOTLIGHT PRESENTATION TO JAMES WIRT & VIRGIL TODD – SOLID WASTE COLLECTION DIVISION

The City Manager and Mayor recognized James Wirt and Virgil Todd, Solid Waste Collection Division, for their outstanding performance.

PRESENTATION BY THE RETAIL COACH

Aaron Farmer, The Retail Coach, presented a power point presentation updating the council on retail economic development. (The presentation is on file in the City Clerk's office).

Tanner questioned the plans for helping existing retailers in the community. He stated many businesses have gone out and he questioned what was going on.

Mr. Farmer stated the retail industry is involving. With internet sales, many retailers are having trouble figuring out how to compete. New retailers are popping up every day and restaurants are leading the charge. A lot of national retailers and restaurants are shrinking the size of their stores and that will bode well for Lawton. The retail industry as a whole is still good. As far as working with local businesses, they met with the Chamber board a month ago and they made all this data available to the local businesses. He stated they may look at holding a training event to get this information in front of the local businesses to see how they can help.

Mayor Fitch stated this data could reshape and redesign their mode and way of doing business within the community.

AUDIENCE PARTICIPATION:

Timothy Loftis, 2704 NW 52nd Street, stated he would like to present an idea of a community park in the area of 52nd Street between Quanah Parker and Rogers Lane. He has developed an idea of putting a community center and a park in that area. There are two apartment complexes and a nice size neighborhood on both sides of the street. He was hoping he could get the Chamber of Commerce and the Boys and Girls Club interested in investing in this project. He would also like to put retail advertisement on the property.

Wells stated at one point it was school land and it still may be. They may have agreed to put it up for sale and that is why the price is so high.

Mr. Loftis stated he would like to talk with the Chamber of Commerce and the Boys and Girls Club about putting together a development. They could get sponsorships from the City of Lawton and the Chamber of Commerce. He also has several fundraisers and community activities that will be going on.

Tanner stated he agrees with the idea and he feels the Chamber of Commerce and the Boys and Girls would be happy to meet with him. He just needs to contact them.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF OCTOBER 11, 2016.

MOVED by Wells SECOND by Burk to approve the minutes of Lawton City Council regular meeting of October 11, 2016. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

CONSENT AGENDA

Mayor Fitch stated a citizen has requested to speak on item #2. Ihler stated item #13 needs to be pulled to correct some numbers. Wells requested the Sims claim on item #1 be pulled for discussion.

MOVED by Burk SECOND by Jackson to approve the consent agenda with the exception of item #1 (Sims claim), items #2 and #13. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for approval: Nina Tucker in the reduced amount of $1,042.74 **(Res. 16-77)** and LyRonda and Garrett Sims in the reduced amount of $510.50 **(Res. 16-78)**. Exhibits: Legal Opinions/Recommendations Res. 16-___, Res. 16-___.

Wells stated he would like to ask the council for their support in asking staff to come up with a recommendation for the older streets in Lawton to change them to one side only parking. With the size of emergency vehicles going down the street and people parking on both sides of the street and drivers have to watch both sides of the street. In this case they hit a mirror on a vehicle. He has heard of cases where they have had to back up and go around a different way because they could not get through in an area. He feels they just need to look at this issue and he hopes that council would support directing staff to come up with a recommendation.

Morford stated he would support this idea because he has problems in his area.

MOVED by Wells SECOND by Morford to approve the claim of LyRonda and Garrett Sims in the reduced amount of $510.50 **(Res. 16-78)**. AYE: Morford, Jackson, Bellino-Hall, Tanner, Phillips, McGahee, Wells. ABSENT: Burk. NAY: None. MOTION CARRIED.

2. Consider the following damage claim recommended for denial: Kimberly and John McKay in the amount of $199.28. Exhibits: Legal Opinions/Recommendation.

Mayor Fitch stated the McKay's requested to speak but are not in attendance.

MOVED by Wells SECOND by Morford to deny the damage claim of Kimberly and John McKay in the amount of $199.28. AYE: Morford, Jackson, Bellino-Hall, Tanner, Phillips, McGahee, Wells. ABSENT: Burk. NAY: None. MOTION CARRIED.

3. Consider accepting a professional services agreement for financial advisory and consulting services with BOK Financial Securities (BOKFS). Exhibits: Professional services agreement for financial advisory services, on file in the City Clerk's office.

4. Consider approving a professional services agreement for bond counsel services with the Floyd Law Firm, P.C., of Norman, OK. Exhibits: Floyd Law Firm, P.C. Proposed Professional Services Agreement.

5. Consider accepting a grant of $109,000.00 and entering into a grant agreement with the Oklahoma Highway Safety Office to target and reduce the number of alcohol-related crashes and fatality accidents within the City of Lawton. Exhibits: A copy of the grant agreement summary is on file in the City Clerk's office.

6. Accept the Annual ADA Report that outlines completed ADA accessibility projects, and work done towards compliance, and the money expended on each project required by the settlement agreement between the City and Joseph Harper and Vivian Wheeler dated 9 December, 2013. Exhibits: 2015-2016 ADA Compliance Report and ADA Executive Summary.

7. Consider accepting the reimbursement check of $5,822.81 from Custom Apparatus Concepts II, Inc. for the purpose of purchasing the specified radio package, and approving the deposit of these funds into the Lawton Fire Operations supply, tools and equipment account (001-1195-000-00-02010000) for said purpose. Exhibits: None.

8. Consider ratifying the action of the City Manager giving notice to Keleher Outdoor Advertising terminating its continued possession for signboard purposes and demanding surrender to the City of certain city-owned property needed for the proposed public safety facility located south of Gore Boulevard between Railroad Street and Larrance Avenue. Exhibits: Letter to Keleher Outdoor Advertising.

9. Consider ratifying the action of the City Manager giving notice to Tag Outdoor Advertising terminating its continued possession for signboard purposes and demanding surrender to the City of certain city-owned property needed for the proposed public safety facility located south of Gore Boulevard between Railroad Street and Larrance Avenue. Exhibits: Letter to Tag Outdoor Advertising.

10. Consider accepting a warranty deed and seven temporary easements from Board of Education of the Independent School District #8, for right of way needed for the SW 52nd Street Project# 2012-4, authorizing the Mayor and City Clerk to execute the documents. Exhibits: Location Maps. Documents are on file in the City Clerk's office.

11. Consider accepting a permanent easement and a temporary easement from Ronald Orr and Amber Schomaker, husband and wife, for right of way needed for the Pat Henry Elementary School, Safe Routes to School Project# 2013-09, authorizing the Mayor and City Clerk to execute the documents. Exhibits: Location Maps. Documents are on file in the City Clerk's office.

12. Consider accepting three permanent easements (DACA56-2-16-007, DACA56-2-16-008 and DACA56-2-16-009) from The Secretary of the Army acting by and through the Chief, Real Estate Division, U.S. Army Corps of Engineers, Tulsa District, for right of way needed to operate and maintain a 24 inch water line located on Fort Sill Military Reservation, authorizing the Mayor and City Clerk to execute the documents. Exhibits: Documents are on file in the City Clerk's office.

13. Consider awarding a contract for the East Gore Boulevard Accessible Sidewalk Project SSES 16-3 Phase 1 and Phase 2 to Alfred Espinoza dba A E Construction Company in the amount of $139,975. Exhibits: The Construction Contract and Bid Tabulations are on file in the Sewer System Technical Division's Office.

Ihler stated the amount listed in the agenda title is actually the engineer's estimate. The low bid from A E Construction was actually $142,635, so they need to award the contract in that dollar amount. The second number to be corrected is in the funding source under the LETA Sidewalk Fee in Lieu Funds current balance. The current balance is $14,964.36. He stated staff still recommends the low bidder, A E Construction.

Tanner clarified that the majority of this money cannot be spent on any other project other than ADA improvements. They are not spending money out of the general fund. The ADA committee approved this. The sidewalk in lieu of funding can only be spent on sidewalks. They have also received private donations. He feels this is a really good idea.

Burk stated he was able to secure $58,000 in private funding and they have begun the process of selling engraved bricks. They are 4" x 8" bricks and are $100 each. He stated Lawton Enhancement Trust Authority will set up a fund for this sidewalk and every dollar from the sale of the bricks will go back into the ADA account and he believes they will not spend a dollar of the ADA money. Within the next week to two weeks they will have flyers available. He stated his goal is to replace several sections of the sidewalk on the east side of the veteran's center and replace those with bricks.

MOVED by Morford SECOND by Burk to award a contract for the East Gore Boulevard Accessible Sidewalk Project SSES 16-3 Phase 1 and Phase 2 to Alfred Espinoza dba A E Construction Company in the amount of $142,635. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

14. Consider approving contract Amendment #1 with Howie Construction Services for additional Inspection services for the Industrial Elevated Tank and the East Elevated Tank Repainting Project, Project #2015-05. Exhibits: Amendment #1 to Agreement.

15. Consider approving four agreements between Fidelity Communications and the City of Lawton for the purpose of providing Cable Modem Internet (CMI) service at the City Hall Atrium, the Police Department, the Animal Welfare Facility, and at the Municipal Court for the purpose of providing secure Automated Teller Machines (ATM) service as a convenience to the public. Exhibits: Proposed Internet Service Provider Agreements with Fidelity Communications are on file in the City Clerk's office.

16. Consider approving specifications for a CNG defueling/refueling trailer to provide support for current and future City CNG vehicles and authorize seeking bids from manufacturers/dealers to provide the CNG defueling/refueling trailer. Exhibits: CNG Defueling/Refueling Trailer specifications are on file in the Equipment Maintenance division supervisor's Office.

17. Consider extending contract (CL16-005) Redi-Mix Concrete, primary vendor Bid #1 to Lawton Transit Mix Inc. of Lawton, OK and secondary vendor Bid #2 to Southwest Ready Mix of Lawton, OK. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.

18. Consider approving the transfer of Airgas USA, LLC of Tulsa, OK Requirement Contract to Matheson Tri-Gas, Inc. of Dallas, TX. Exhibits: Letter of Notice of Assignment of Contract from Airgas USA, LLC. to Matheson Tri-Gas, Inc.

19. Consider extending contract (CL16-003) Manhole Lining Material (items #1 and #2) to Quadex, Inc. of North Little Rock, AR. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.

20. Consider extending contract (RFPCL15-012) Collection of Overdue Utility Bills to Glass Mountain Capital of Schaumburg, IL. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.

21. Consider approving appointments to boards and commissions. Exhibits: None

Mayor's Commission On The Status Of Women
Kathy L Banks-Monroe
21 NW Shelter Lake Drive
Lawton, Oklahoma 73505
Unexpired Term 9/10/2017

Debra Antley
1501 SW 69th Street
Lawton, Oklahoma 73505
Unexpired Term 6/28/2017

22. Consider approval of payroll for the periods of October 10 – 23, 2016.

NEW BUSINESS ITEMS:

23. Hold a public hearing and adopt a resolution declaring the structures located at 912 SW D Ave and 1309 NW Dearborn Ave 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: Resolution No 16_____ and Resolution No 16_____.

912 SW D Avenue

Joshua Leach, Neighborhood Services Supervisor, reported the numerous violations of city code existing on the property are documented on the Property Maintenance Evaluation Sheet. Leach presented photographs of the property

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

1309 NW Dearborn Ave

Leach reported the numerous violations of city code existing on the property are documented on the Property Maintenance Evaluation Sheet. Leach presented photographs of the property

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

Jackson stated he has been so disappointed because it has been over two years since a piece of property has come before the council. Many should have been dealt with a long time ago. There are properties all over town like this and we need these houses taken care of now. He has neighbors bringing him lists of properties in his ward alone. If staff needs more help, then get more help so we can get this taken care of.

Burk stated there is money to take care of this.

Ihler stated there is $150,000 in this year's budget to move forward. He has discussed this with staff and the council will see more properties move forward each month.

Burk stated as he has walked lately he has come across houses and the neighbors have called the City and no one has done anything. We have to do a better job and be more proactive, not waiting until a council member or a citizen calls.

Tanner stated he tries to work with the property owners personally and give them options. He would prefer the homeowner take action and get a demolition permit and we give them half off at the landfill. That way we don't have to tap into this city fund. He will make the motion to declare both of these properties dilapidated, but he would like to have the option of talking to these property owners and let them know that they can still get a demolition permit and tear this down yourself.

MOVED by Tanner SECOND by Morford, to adopt **Resolution 16-79** declaring the structure located at 912 SW D Avenue to be a dilapidated public nuisance. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

MOVED by Tanner SECOND by Morford, to adopt **Resolution 16-80** declaring the structure located at 1309 NW Dearborn Avenue to be a dilapidated public nuisance. AYE: Morford, Jackson, Bellino-Hall, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

Phillips stated she would like for staff to run through the citation procedure and explain what the citizen can do.

Mayor Fitch questioned if there was something posted on the website where citizens can obtain information on dilapidated structures.

Leach stated there will be on the new website. It will outline the procedures and state law.

Wells stated the citizen will get a certified letter that will tell them what they can do.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Wells stated there was a grand opening at Cameron University today for their psychology clinic at the corner of Sheridan and Ferris. They will offer free counseling services to families and individuals that might have mental health problems.

McGahee stated she also attended the opening of the clinic. She stated it will not only help the Lawton community, but the students will also get that needed supervision and training through the clinic. She applauded Cameron University for moving forward with this project. She stated October is also mental health awareness month.

Phillips encouraged citizens to go to the election board to get a sample ballot.

Tanner stated the Open Streets event will be held on Saturday, October 29th from 10 a.m. to 2 p.m. He stated C Avenue will be closed from 2nd Street to 5th Street.

Burk stated the home being built for Operation Finally Home is coming along and he encouraged everyone to donate to the organization. He encouraged everyone to attend the Open Streets event.

Bellino-Hall stated they did very well at the fundraiser for the free clinic. She stated they are going to have a capital campaign in the near future and they will try to provide free dental and free eye care.

Ihler reminded the council of the special meeting on Wednesday, November 2nd at 1:30 p.m. to meet with OpTerra.

Mayor Fitch stated he will be out of town for the special meeting. He requested council look at the vacancies for boards and commissions and make some recommendations to get the vacancies filled.

J.I. Johnson, Finance Director, presented revenue and expenditure highlights for period ending September 30, 2016. (On file in the City Clerk's office).

Wells questioned if Johnson found out if we get a separate check for the sales tax exempt weekend.

Johnson stated he spoke with his contact at the Oklahoma Tax Commission and for the tax free weekend every municipality in Oklahoma does get a refund/rebate from OTC of our share of the state's entire sales. This is based off of historical sales. It may or may not come close to what was actually lost.

Wells questioned when we get the rebate.

Johnson stated it is paid in October and is included with our other remittance.

Wells stated it would be included in the report they received today.

Johnson stated he believes it is in there. He stated a year or two ago the amount estimated for us was in the $70,000 range. It is very close to the amount of our negative variance.

The Mayor and Council convened in executive session at 7:38 p.m. and reconvened in regular, open session at 7:46 p.m. Roll call reflected all members present.

EXECUTIVE SESSION ITEMS:

24. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending case in Comanche County District Court of Chu H. Pae vs. City of Lawton, CJ-2016-610, and if necessary, take appropriate action in open session.

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

There being no further business to consider, the meeting adjourned at 7:47 p.m. upon motion, second and roll call vote.

FRED L. FITCH, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK