



City of Broken Arrow

Minutes City Council Meeting

City Hall
220 S 1st Street
Broken Arrow OK
74012

*Mayor Debra Wimpee
Vice Mayor Christi Gillespie
Council Member Johnnie Parks
Council Member Lisa Ford
Council Member Justin Green*

Tuesday, March 5, 2024

Time 6:30 p.m.

Council Chambers

1. Call to Order

Mayor Debra Wimpee called the meeting to order at approximately 6:30 p.m.

2. Invocation

Pastor Andrew Conley performed the invocation.

3. Roll Call

Present: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

4. Pledge of Allegiance to the Flag

Vice Mayor Gillespie led the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

Mayor Wimpee asked if there were any Items to be removed from the Consent Agenda.

Vice Mayor Gillespie requested Item H be removed for discussion.

MOTION: A motion was made by Christi Gillespie, seconded by Justin Green.

Move to approve the Consent Agenda less Item H

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

- A. 23-1570 Acknowledgement of upcoming out-of-state travel by City Council members
- B. 24-70 Approval of the City Council Meeting Minutes of February 20, 2024
- C. 24-297 Approval of a 2024 proposed legislative agenda for the City of Broken Arrow's priorities to present to Oklahoma members of Congress at National League of Cities Advocacy on Capitol Hill Day on March 13, 2024, in Washington, D.C.
- D. 24-325 Approval of and authorization to execute a ratified collective bargaining agreement with the International Association of Firefighters (IAFF) Local No. 2551 for Fiscal Years 2023-2025
- E. 24-314 Approval of and authorization to execute an Expert Witness Consultant Agreement with Joseph W. Kowalski, P.E., for providing independent professional advice as a consultant regarding the Tiger Hill Retaining Wall Design and Construction Defect Dispute with O.J.C., and Heartstone
- F. 24-293 Approval of and authorization to execute Third Amendment to Economic Development Agreement by and among Sunset at Broken Arrow, LLC, and the Broken Arrow Economic Development Authority and the City of Broken Arrow
- G. 24-344 Approval of and authorization to execute Resolution No. 1563, a Resolution of the Broken Arrow City Council accepting an assignment of a Purchase and Sale Contract between the Broken Arrow Economic Development Authority and Sunset at Broken Arrow, LLC, Approval and Authorization to accept a General Warranty Deed from the Broken Arrow Economic Development Authority, Approval and Authorization to execute a contract for sale of 15.01 Acres of Real Estate to Sunset at Broken Arrow, LLC described as Lot 1 Block 1, for the sum of \$577,314.62 with \$10,000 earnest money down, designating representatives of the City of Broken Arrow for purposes of granting certain approvals and executing certain instruments as required
- H. 24-300 Approval of and authorization to execute an amended Professional Transportation Services Contract with the Metropolitan Tulsa Transit Authority (Tulsa Transit) to provide public transportation services for the remainder of Fiscal Year 2023-24
- I. 24-307 Approval of and authorization to execute a Training Agreement between the City of Broken Arrow and Northeast Technology to provide training services for employees
- J. 24-309 Approval of and authorization to execute a Memorandum of Understanding between the City of Broken Arrow and Tulsa Technology Center to provide training services for employees
- K. 24-306 Notification of City Manager's and Assistant City Manager's execution of Professional Consultant Agreements and Amendments to an Agreement, as well as public

Construction Contracts not subject to the Competitive Bid Act, with a Contract value of \$50,000 or less

L. 24-248 **Notification of appointees for the re-engaged New Orleans Square Advisory Committee**

M. 24-335 **Approval of a modification to Section 4.1(n) of the Land Subdivision Code for Sunset Amphitheater, approximately 41.15 acres, A-1 (Agricultural), one-half mile north of New Orleans Street (101st Street), three-quarters of a mile west of Evans Road (225th East Avenue), east of the Creek Turnpike**

N. 24-330 **Approval of BAZ-001240-2023 (Rezoning), Williams Rezoning, 9.64 acres, A-1 (Agricultural) to RS-3 (Single-Family Residential), located east of Elm PL (161st E. Ave), and south of Florence Street (111th Street)**

O. 24-310 **Ratification of the Claims List Check Register Dated February 27, 2024**

6. Consideration of Items Removed from Consent Agenda

Mayor Wimpee read Item H: "Approval of and authorization to execute an amended Professional Transportation Services Contract with the Metropolitan Tulsa Transit Authority (Tulsa Transit) to provide public transportation services for the remainder of Fiscal Year 2023 24."

Vice Mayor Gillespie indicated she wanted this Item to be pulled to highlight the Item. She stated the micro transit program was a great initiative.

Acting Community Development Director Grant Rissler stated in 2005 Broken Arrow entered into a contract with Tulsa Transit to begin servicing the Broken Arrow area; in 2018 the Express Route was added running through Broken Arrow with a nonstop route from Broken Arrow into downtown Tulsa. He explained with the Amendment to this contract Broken Arrow citizens would be able to pick up the phone or use the app to request a ride and, like an Uber, a vehicle would arrive to take the rider anywhere within the pilot program boundaries for \$1.75. He stated the pilot program boundaries contained a 17 square mile area through the center of Broken Arrow. He noted the Express Route would continue as usual and the new micro transit service could drop riders off at the start of the Express Route. He stated this program would launch March 18th, 2024.

Council Member Lisa Ford asked for program information to be forwarded to the Senior Center as soon as possible.

Mr. Rissler indicated the City held training sessions with the Senior Center to show the seniors how to use the system. He stated there were also QR code links which could be scanned to access the app.

Vice Mayor Gillespie asked if a resident called for a ride, paid \$1.75 to go to the grocery store, and called for a ride home, would the user be required to pay another \$1.75 for the ride home. She noted she heard something about a 3 hour time period.

Mr. Rissler responded users would be required to pay \$1.75 per ride, but in a couple of months the contract would be under renegotiation, and perhaps changes would be made. He stated the goal was to launch this micro transit program before the renegotiation period, so the City would have some data to work with during renegotiation. He noted the travel area was approximately 17 square miles, and both hospitals, though outside the 17 square miles, were included as drop off points. He noted St. Francis South Hospital was a pickup center to pick up other buses going into other areas of Tulsa. He stated anyone with questions was welcome to contact City Staff who would be more than happy to help.

City Manager Spurgeon thanked City Council for being supportive of this effort. He stated this pilot program would be an incredible opportunity for Broken Arrow citizens to access basic services. He stated the Communications Department was working hard to get the word out regarding the launch of the pilot program.

MOTION: A motion was made by Christi Gillespie, seconded by Johnnie Parks.

Move to approve the Consent Agenda Item H

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

7. Public Hearings, Appeals, Presentations, Recognitions, Awards

A. 24-168 **Presentation and annual programming update by the Broken Arrow Historical Society and Genealogy Society**

Community Relations Manager Lori Hill introduced the new Executive Director of the History Museum, Jana Rogers. She read some of Ms. Rogers' bio highlighting her education, as well as her success and accomplishments in history based businesses and organizations. She introduced Allie Cloud and Judith Jaegur.

Ms. Janna Rogers thanked City Council, City Staff, History Museum staff and board volunteers, and History Museum artists. She noted this was her fourth week serving as the

Executive Director of the History Museum. She reported in January, Museum admissions totaled 158 visitors, in February the numbers increased to 569 visitors thanks to the History Museum's community outreach, as well as the dedication of Museum Staff. She reported next week the History Museum would be collaborating with the Sherwin Miller Museum of Jewish Art in Tulsa regarding a collaborative installation of Broken Arrow and Oklahoma pioneers and settlers. She stated there were similar projects in the works. She introduced Ms. Allie Cloud, the History Museum Education Coordinator.

Ms. Allie Cloud greeted City Council and stated she was honored to serve as Education Coordinator for the History Museum. She stated as the Education Coordinator she would create programing for Broken Arrow Schools, develop walking tours of the Rose District, and hopefully develop tours around Broken Arrow in other historical locations. She stated she hoped to illustrate how Broken Arrow helped in WW2. She noted she enjoyed being part of the Broken Arrow Youth City Council which ultimately led to her current position.

Council Member Johnnie Parks stated he was a Member of the History Museum Board, which he sincerely enjoyed. He read, "the working board at the history museum, great people working together, spending many hours with a project they appreciate and are devoted to, maintaining the history of our city." He stated he had served on many boards over the years, had heard about working boards, but never knew what a working board was until he joined the History Museum Board. He stated the History Museum Board was a true working board. He indicated the original cost of the History Museum building was \$2,214,950 dollars in 2004; \$1.6 million dollars came from ad valorum taxes approved through the GO Bond, and \$568,000 dollars came from Vision 25. He indicated he mentioned this because he was concerned about the City of Broken Arrow maintaining a good relationship with the History Board. He stated this year City Council approved \$700,000 dollars to replace three air conditioners and heaters at the History Museum. He stated the City was also looking at the possibility of a \$4 million to \$6 million dollar expansion of the History Museum with the 2026 Bond Issue. He stated he wanted to speak regarding the public/private partnership between the City and the History Museum. He stated he did not agree with a comment made at the last Museum Board Meeting: "No one can tell the History Museum what to do because they are a nonprofit." He stated he worked with a lot of nonprofits who worked with the City, and the City would instruct the nonprofits, and this never was a problem. He stated he would like the City and the History Museum to be able to work together. He noted the City had an annual contract with the History Museum for the Museum to occupy a citizen-owned building; this contract made the History Museum and the City partners, a public-private partnership. He stated the Building Committee under Gary Gerber's guidance and leadership, working with the City's representatives, Lori Hill and Ryan Baze, worked hard to ensure there was no question regarding who was providing what and when to maintain the building. He stated to assure compliance, the contract stated the following, "within the limitations of a nonprofit, 501C3 organization, licensee may charge an annual membership fee, activities, user fees, and hold periodic fundraiser events in order to cover its operating expenses. In order to assure compliance with licensee status, the City reserves the right to examine licensee's financial statements upon request." He explained as part of the contract the City had the right to check the History Museum's finances. He indicated part of the City Council's job as a representative of the City was to review financial statements to ensure fiduciary responsibility. He stated the Museum Board, as did most boards, had a responsibility to know where and how expenses were made. He stated the Board should have advanced time and opportunity to question expenditures and receivables. He stated he had not received a good flow of financial statements since he served on the Board. He indicated there was a lack of sequential income and expenditure monthly reports. He stated he understood there was recent turnover of Board Members and Staff which created complications. He stated he was recommending City Staff visit with Museum representatives and implement the following: "the licensee shall furnish the City with a copy of an approved financial review conducted by an independent accounting firm no later than 270 days of the end of the licensee's current fiscal year. Additionally, if requested by the City, a full financial audit shall be provided by the licensee." He stated this was the norm; he took this wording from the Senior Board's agreement. He explained the City was not asking for anything of the Museum it did not ask of the Senior Board. He stated as a councilman, he needed this information to pass on to City Council. He stated the Museum Board could not claim "the City cannot tell us what to do" because the Contract indicated otherwise. He noted the City provided the maintenance for the building and certain regulations were rightfully in place. He stated he wanted the History Museum and the City to continue working together and he enjoyed serving on the Board, but this financial paperwork was important not only to himself, but also to the City.

Ms. Rogers stated she served on the History Board for six months prior to taking her current position, and she did not recall hearing the statement "the City cannot tell us what to do" but this did not mean it was not said. She stated she never heard this said during a Board meeting or at the Museum, and this was not the ethos or ideology of the Museum, in fact, behind closed doors the long history of a cloud hovering over the relationship between the History Museum and the City and the importance of moving beyond this cloud was discussed. She

stated she, the Museum Staff, and the Museum Board wished to move forward with the relationship with the City. She stated if there was anything she could do, to please reach out. She stated Dr. Betty Gerber and Dr. Gary Gerber were working diligently to review all of the Museum's finances and get the documents in order for presentation to the City. She stated she believed the Museum wished to move beyond the past relationship and build a healthy relationship with the City, to prosper as the Museum and prosper in the relationship with the City and the Community. She stated during her first meeting with City Manager Spurgeon she indicated she would be supportive of the City, and she believed the City would be supportive of the Museum, and indeed it had. She stated if there were any documents needed from the Museum, said documents would be provided.

Council Member Parks stated he knew Gary and Betty Gerber were working hard on the financial documents. He stated he also was trying to get past the cloud over the relationship. He noted the comment was made at the last Board Meeting, Ms. Rogers would not need to go far back into the record to hear it.

Ms. Rogers reiterated, this was not the ethos or ideology of the Museum.

Mayor Wimpee recognized Dr. Gary Gerber and Dr. Judith Jaegur.

Dr. Gary Gerber stated he worked very hard over the last three months to audit the Museum's finances. He stated he was getting quotes from financial accounting companies to take over the Museum's accounting. He noted during the last Board meeting a Board Member did say the City could not tell the Museum what to do; however, there was a lot of give and take in Board meetings, and not everyone felt the same regarding all the issues. He noted every Board Member was welcome to an opinion, however, just as all City Council Members were welcome to an opinion. He stated the Museum wished to work collaboratively with the City and he felt this was shown in ample ways in the last year.

Council Member Parks agreed noting good changes had taken place. He stated this was why he was so displeased with the comment which was made. He noted he needed to see the financial statements.

Dr. Gerber indicated the Museum had an auditing firm which audited the Museum annually and he could provide these audits at any time; however, the audits were a year behind, the 2022 audit was being finished, and the 2023 audit would be done this year.

Council Member Parks stated there was nothing specific which worried him regarding the finances, he just understood what the process should be.

Mayor Wimpee agreed people could have their opinions; Council Member Parks was simply stating what the Contract indicated.

Dr. Gerber agreed.

Dr. Judith Jaegur stated the Genealogical Society occupied a 24 foot by 24 foot room within the History Museum as a separate entity; the Genealogical Society was a separate 501C3. She stated the Genealogical Society had a budget of less than \$10,000 dollars and a membership which was struggling. She indicated the climate for reception of genealogy changed over time and the Society was trying to revitalize and bring identity. She stated the Genealogy Society was a hospitality service for Broken Arrow; 12 hours were scheduled each week the Museum was open, and this meant the Society served 548 service hours in 2023. She stated additionally the Society did quite a bit of individual research, 6 to 8 hours of study for each individual question. She stated during the last year she spent 5 weeks in a workshop for the Senior Center looking into methods of writing family stories from genealogy research. She stated the Society was also a community outreach. She noted Council Member Justin Green joined the Genealogical Society Board in 2023. She stated the Society reached out to lineage groups, heritage groups, patriotic groups, etc. She stated Children of the American Revolution was a fledgling of the Genealogical Society and met occasionally in the Genealogical Society Library. She stated the Society had new membership and the Sons of the American Revolution joined the Daughters of the American Revolution (DAR) Board. She stated Creek Land's Chapter of DAR frequently held its meeting in the Library. She discussed other events held by the Genealogical Society, as well as educational trips and presentations made to other groups regarding the Genealogical Society. She discussed the Native American population in Broken Arrow and Oklahoma and the potential of finding Native American descendants who were patriots of the American Revolution. She discussed the work being done by the Genealogical Society to collect information. She discussed the Genealogical Society assets including hardcover volumes valued at over \$2,000 dollars which could not be found in bookstores or Amazon. She stated the Genealogical Society had stable banking and \$3,000 dollars of the budget was used to purchase a CD as opposed to being left to sit in a checking account. She invited City Council to the April 11, 2024 public meeting of the Genealogical Society.

Council Member Ford stated she was happy Council Member Green was on the Genealogical Society Board. She stated her mother used to volunteer at the Genealogical Society. She noted she understood the Genealogical Society was struggling, and she had obtained a grant to cover three years of internet service in the past, but if there was anything she could do to help, please let her know. She thanked Dr. Jaegur for presenting.

City Manager Spurgeon stated in April he would meet with the Broken Arrow user groups individually, along with a representative from Jacobs, to hear what the user groups proposed for the 2026 GO Bond package.

B. 24-323 Consideration, discussion, and possible action on an appeal for property owner Adam Makin at 204 W Pittsburg Pl, Broken Arrow, Oklahoma to allow a Short-Term Rental property to be licensed within the 300' radius of another established Short-Term Rental property

Planning and Development Manager Amanda Yamaguchi reported this Item was to deny a license request for a short term rental. She stated this property was located in the mile south of the Rose District. She explained Zoning Ordinance required all short term rentals be separated by a minimum of a 300 feet radius; the only exception was within the 1 square mile of downtown in the Rose District. She stated when Mr. Makin, the property owner, submitted his request it was discovered a short term rental license for 1601 Ash Place which was within a 300 foot radius of Mr. Makin's property was approved on December 13, 2023. She stated based on this, Staff denied the Zoning Clearance Permit for 204 W Pittsburg on February 14, 2024. She stated the property owner then requested an Appeal of the decision to City Council.

Mr. Adam Makin indicated he was an 8 year Broken Arrow resident, a physician assistant, and lived in Seven Oaks, very near this short term rental property. He stated his property was the first property to be denied a license due to this 300 foot radius requirement. He discussed why he felt his short term rental should not be denied, noting he had been discussing his rental with the City since 2019. He discussed the changes and amendments to the Ordinance over the years and how it affected his short term rental. He stated his home was one of the first 20 short term rental properties in the City and it never had an opportunity to become licensed. He noted his property passed inspection. He stated with the 12,000 seat amphitheater on its way, the City of Broken Arrow would need more available lodging and his short term rental, close to the Rose District, would be needed. He stated on Airbnb his first 100 reviews were 5 star reviews which was unheard of and a direct reflection of the care he and his wife put into this short term rental. He discussed some of his past renters noting his home was not a typical short term rental, not a party house, and never had a complaint call or a disturbance call. He stated prohibiting his short term rental would affect more than just himself, those who cleaned the rental would lose income, those who regularly rented his home would need to find other lodging, etc. He stated his short term rental had not had the opportunity to be lawfully registered but had an exceptional record.

Mayor Wimpee noted Mr. Makin had been operating this home as a short term rental for a long time.

Mr. Makin agreed.

Mayor Wimpee stated the purpose of the 300 foot radius prohibition was to ensure communities did not fill up with short term rentals.

Mr. Makin stated this was his only short term rental and he had no intention of purchasing multiple properties for short term rental.

Vice Mayor Gillespie noted homeowners should be allowed to do what they wished with their homes, but in the case of short term rental properties, it was at the expense of the surrounding homeowners. She stated she stayed in Airbnb's often and she enjoyed them, but she had a lot of feedback from citizens in the community who were not necessarily against short term rentals but were fearful neighborhoods would fill up with short term rentals if not kept in check. She stated while Mr. Makin might not want to purchase multiple properties for short term rentals, if the City began making exceptions for one property owner, it would be difficult to justify refusing the next property owners who also had good reasons for the City to make an exception. She stated a lot went into the decision to limit short term rentals to a 300 foot radius of each other. She said she understood Mr. Makin's concerns, but someone else did come in and get a permit for a short term rental in the area. She noted Mr. Makin did not have a permit previously which had lapsed and now should be grandfathered in or something, Mr. Makin simply never had a permit.

Mr. Makin stated he never had an opportunity to get a permit because of the regulations. He stated it was impossible for him to get a permit previously.

Mayor Wimpee stated she wondered how many short term rentals had been in operation for years and were in the same situation as Mr. Makin.

Mr. Kissler stated Broken Arrow had a software program which monitored postings for short term rentals and when these popped up, the City sent out a courtesy letter requesting the operator to obtain a permit. He stated if the short term rental operator did not comply, another letter was sent issuing a court summons. He stated this process took time and there were roughly 60 short term rentals operating in the City without a license which had been served courtesy letters, 25 were sent court summons recently as the property owners were not in compliance and not trying to get into compliance.

Vice Mayor Gillespie asked if Mr. Makin received a letter.

Planning and Development Manager Amanda Yamaguchi reported Mr. Makin took the first step in getting the licensure to get a zoning clearance permit, and to her knowledge Mr. Makin had not received a courtesy letter of notification of noncompliance; Mr. Makin came to the City wishing to come into compliance. She stated when Mr. Makin made his request, the zoning came back showing his home did not meet the requirements, not through any fault of Mr. Makin, but because there was an existing short term rental within 300 feet of his property.

Council Member Parks asked when the other short term rental was established.

Mr. Makin stated the other short term rental was permitted on September 23. He stated his appeal was, his home never would have had a chance to get a license based on the short term rental regulations. He stated he did receive a letter from the City requesting his property come into compliance; however, he talked to the City two years ago trying to find the information he needed, and the other home was able to get a permit two years ago when his property could not have been permitted.

Council Member Green asked Mr. Makin to explain what he meant when he said, "I didn't have a chance."

Mr. Makin stated if he had applied for a permit a few years ago he would not have had enough parking spaces, but that requirement changed, and at another time he would not have had the required lot space, but that requirement changed. He explained even if he had applied for a permit previously, he would not have met the requirements in place at the time.

Vice Mayor Gillespie stated Mr. Makin was operating a short term rental in this location even though it did not meet the regulations in the past.

Mr. Makin concurred, noting many property owners had been operating short term rentals for years without a permit. He stated the City had not sent letters to the property owners indicating homes could not operate without short term rental licensing until recently.

Council Member Green noted the law was still the law, just because the City had not sent out a letter it did not mean short term rentals were allowed without permitting.

Mr. Makin asked if there was a law previously stating homeowners could not operate a short term rental.

Council Member Green stated there were permitting procedures in place to enable homeowners to operate a short term rental, and if a short term rental was being operated without a permit, it was out of compliance.

Vice Mayor Gillespie stated she was unsure exactly when the short term rental Ordinance was put into place.

Ms. Yamaguchi stated short term rentals were specifically mentioned in Code in September 2021. She explained at that time Broken Arrow began hearing concerns from residents about short term rentals, which prompted the City to update Zoning Ordinance to include short term rentals. She stated between 2021 and 2023 the process was to obtain a specific use permit for short term rentals, and now the process was different. She stated Mr. Makin's neighboring short term rental property obtained a specific use permit for the short term rental. She noted since then the Ordinance and permitting procedures changed, and the 300 foot radius was added to the regulations.

Vice Mayor Gillespie stated there was also a requirement indicating if a short term rental was within 500 feet of a school, background checks of potential renters were required.

Ms. Yamaguchi concurred.

Mayor Wimpee asked how far Mr. Makin was from the conflicting property.

Mr. Makin responded his home was 152 feet away from the conflicting property.

Mayor Wimpee stated she was inclined to allow the short term rental permit based on this being a unique situation and Mr. Makin being in good standing for a long time.

Council Member Ford asked if Mr. Makin's home met the parking requirements now.

Mr. Makin stated there were no parking requirements to his knowledge at this time, but he had a two car stacked driveway for parking. He noted his listing indicated there was no parking allowed in the street or on the grass.

Vice Mayor Gillespie stated she was inclined to vote against Mr. Makin because she approved the 300 foot restriction due to citizens being concerned about short term rentals being so close. She stated before she was to approve this exception, there should be notice sent to Mr. Makin's neighbors.

Council Member Parks agreed notice should be sent. He stated the neighbors should be given the opportunity to speak to City Council. He indicated there would probably be no problems, but the neighbors should have the right to speak. He noted he had a short term rental property on his block which was the quietest house on the block.

Vice Mayor Gillespie stated perhaps the neighbors would show up in support of this short term rental property.

Council Member Parks agreed.

Council Member Green noted Mr. Makin had never been in compliance, and he understood as time changed rules changed, but Mr. Makin never was in compliance. He agreed the neighbors should be notified and given the opportunity to speak.

Mayor Wimpee asked if this Item could be tabled, and notice could be sent to the surrounding residents.

City Attorney Trevor Dennis responded in the affirmative.

Vice Mayor Gillespie asked if Mr. Makin's property was within 500 feet of the school.

Ms. Yamaguchi stated she was unsure, but this could be verified. She discussed the notice procedures.

City Attorney Dennis recommended, as there was no procedure of notice for the property owners, Staff should send out the notice, and in the future if the property owners were required to issue notice, Ordinance should be amended to outline the procedure.

Discussion ensued regarding distance requirements and the radius report.

Council Member Ford stated Mr. Makin should understand moving forward with sending notice and tabling this Item did not mean it would be approved.

Mr. Makin stated he was more than happy to hear from his neighbors and was willing to place a sign in his yard as well.

Council Member Green asked if Mr. Makin should be allowed to continue operating his short term rental in the meantime.

Council Member Ford stated Mr. Makin was already operating his short term rental. She noted she was a rule follower, and she did not like this.

Vice Mayor Gillespie agreed.

Mr. Makin stated he would be happy to make his short term rental property inactive until this was resolved. He noted his current guest was staying for more than 30 days and did not fall within the short term rental definition.

City Attorney Dennis discussed how the motion should be made.

Mr. Makin asked if there was an estimated date for reappeal.

City Attorney Dennis recommended the second meeting in April.

MOTION: A motion was made by Christi Gillespie, seconded by Johnnie Parks.
Move to table Item 7B and instruct Staff to reschedule the appeal with sufficient time for Staff to prepare the 300 foot radius report and provide notice to the property owners within the 300 foot radius

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

**8. Citizens' Opportunity to Address the Council on General Topics Related to City Business or Services
(No action may be taken on matters under this item)**

Mayor Wimpee indicated three Citizens signed up to speak.

Citizen Carolyn Hubert stated she lived across from the Events Park. She stated she was excited about the Amphitheater but was dreading the traffic. She indicated she understood the Amphitheater was attempting to direct traffic onto Highway 51 and avoid 101st, but she was very concerned about the traffic on 101st as a result of the Amphitheater.

Mayor Wimpee stated the City was investing \$28 million dollars in infrastructure improvements in this area, including additional exits and entrances to the amphitheater to keep drivers off 101st, as well as a pigtail onto the Creek Highway, which would divert drivers off 101st as much as possible.

City Manager Spurgeon stated the City met with the Oklahoma Turnpike Authority and the Oklahoma Department of Transportation on February 29, 2024 to specifically talk about the potential turnaround within the park to get on the Creek Turnpike; the meeting went very well, and discussions regarding the Agreement and details about construction were moving forward. He stated the other part of the discussion was regarding the new road the City would build from Gary Street to the north to tie it into Highway 51. He stated this road would include a connection to the parking lot and another way into the Amphitheater. He stated the City would also be putting in an additional lane on the south side from the Creek Turnpike entrance to address potential stacking issues. He indicated he hoped to start construction this summer.

Citizen Pam Schultz thanked City Council for listening to her concerns during the January Meeting. She asked if the concerns she presented to City Manager Spurgeon had been sent to the City Council Members.

City Manager Spurgeon stated Ms. Lori Hill had the list of Ms. Schultz's concerns, but the concerns were essentially what was discussed during the January City Council meeting, as well as the Planning Commission Meeting.

Ms. Schultz noted she asked the City to find another location for the Amphitheater. She noted she was not opposed to the Amphitheater, but this location was terrible and the direction the Amphitheater would be facing was problematic. She stated she asked the City and Notes Live to turn the Amphitheater toward the north as opposed to the northeast which was directly toward her home. She stated Mr. Mudd indicated the Amphitheater was turned to face northeast because the higher frequency sounds would be facing an industrial park; however, she lived right next to the industrial park. She noted there was also another housing addition and a school all in this direction. She stated the Amphitheater would adversely affect herself and others in terms of sound, traffic and possibly, but hopefully not, safety. She stated there were no homes north of the Amphitheater and she asked why the Amphitheater could not face north. She noted Notes Live had never opened an Amphitheater and she was concerned. She stated the studies conducted by Notes Live were speculation, not fact. She asked who the citizens of Broken Arrow could contact if the studies conducted by Notes Live turned out to be incorrect.

Council Member Green indicated citizens could contact the City Council. He stated he knew from experience, as a musician, the studies referred to by Notes Live were not theory but were based on factual information thanks to the existence of other venues. He stated there were amazing facilities out there with amazing technology which could control and direct sound. He indicated he understood Ms. Schultz's concerns and validated her concerns. He stated everyone on City Staff and in the City Manager's Office and Notes Live were doing their best to ensure the Amphitheater did not disturb the neighbors. He stated if there were issues after the Amphitheater was completed, City Council was there to listen and would do its best to assuage any concerns remaining.

Ms. Schultz asked the City to protect the citizens of Broken Arrow from the sound of the Amphitheater disturbing the peace. She asked if performers would be able to use their own sound equipment.

Council Member Green responded everything would be regulated.

City Manager Spurgeon stated he did not believe performers would be permitted to use their

own equipment.

Ms. Schultz asked if the City would be made aware of the dbas from each concert and made aware of what the nearby homes were dealing with.

Mayor Wimpee asked Ms. Schultz to send her questions to the City Council.

Ms. Schultz indicated she would love to, and she read all of her questions to City Council.

Mayor Wimpee asked Ms. Schultz to submit her questions to City Council.

Assistant City Manager of Operations Kenny Schwab noted many of Ms. Schultz's questions would be answered under Item 9C, and Mr. Mudd and Charlie Bright would be able to answer many of these questions.

Citizen Julia Weare stated the United States Postal Service announced a change of operations from the Tulsa Processing and Distribution Center (P&DC) to the Oklahoma City Processing and Distribution Center. She indicated the change would result in all mail being trucked to Oklahoma City for processing and mail destined for local distribution would then be trucked back to Tulsa P&DC for a final sort and delivery. She said the USPS indicated there would be no change to the local mail service; however, she did not believe this was true and she had concerns regarding mail delay as a result of the additional trucking time; the Oklahoma City P&DC not having the capacity to sort the additional volume; residents not being able to pick up mail nightly due to the delay in processing; postal jobs leaving the Tulsa area and the negative impact on tax revenue. She stated a public meeting regarding these changes would be held on March 7, 2024 at 3:00 p.m. at the Hardesty Regional Library at 8316 E. 93rd Street, Tulsa, OK. She encouraged all to attend. She stated there would be a financial impact on the City and a minimum one day delay in mail service. She asked citizens to tell the USPS they did not support these plans which would slow down mail service for residents in northeastern Oklahoma. She thanked City Council for the opportunity to speak.

Council Member Ford asked for additional information so City Council could advocate for continued postal service in Tulsa while the City Council was in Washington D.C.

Mr. Weare stated she would send City Council additional information.

Vice Mayor Gillespie stated she had seen information about this on social media and at first, she thought it was a hoax, but it was true.

Mayor Wimpee thanked Ms. Weare for bringing this to the attention of City Council.

9. General Council Business

A. 24-322 **Consideration, discussion, and possible approval of and authorization to execute project financing, subcontracting and construction agreement between the City of Broken Arrow and the Indian Nations Council of Governments for the Safe Streets For All 2022 United States Department of Transportation Discretionary Grant Program and approve and authorize execution of Fiscal Year 2024 Budget Amendment Number 22**

Mr. Zack Smith reported this Grant was for low cost – high impact traffic safety devices, such as possible new intersections, new hawk signals, flashing yellow arrows for intersections, backer plates, etc. He stated the City of Broken Arrow would match \$1 million dollars of which approximately \$111,000 dollars up to \$250,000 dollars would be for design purposes and the remaining amount would be for construction. He stated INCOG would administer the design contract with the City of Broken Arrow administrating construction.

Vice Mayor Gillespie stated she liked hawk beacons and was happy Broken Arrow would have more of them.

MOTION: A motion was made by Christi Gillespie, seconded by Justin Green.
Move to approve and authorize execution of project financing, subcontracting and construction agreement between the City of Broken Arrow and the Indian Nations Council of Governments for the Safe Streets For All 2022 United States Department of Transportation Discretionary Grant Program and approve and authorize execution of Fiscal Year 2024 Budget Amendment Number 22

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

B. 24-331 **Consideration, discussion, and possible approval of and authorization to execute Resolution No. 1560, a Resolution of the Broken Arrow City Council for the purchase of 3.06 acres of real property located at 130 East Washington Street, Broken Arrow, Oklahoma in the amount of \$725,000.00, with the sum of \$36,250.00 in earnest money and approve and authorize execution of Fiscal Year 2024 Budget Amendment Number 23 and approve and authorize execution of a Purchase and Sales Contract**

Assistant City Manager of Administration Norm Stephens reported recently the City Manager directed Staff to begin negotiations to purchase 3.06 acres of real property located east of Main Street and north of Washington. He stated the 3.06 acres did not include the northeast corner of Main Street and Washington. He stated the property was appraised on behalf of the city on January 25, 2024 by Valbridge Property Advisors in the amount of \$655,000 dollars and the listed sale price for the property was \$750,000 dollars. He explained through negotiations, the City and property owner agreed upon \$725,000 dollars. He noted the close proximity of the property to Arrowhead Complex and the Senior Center made this property very beneficial for future municipal use.

Council Member Parks stated he felt this was a very good purchase. He noted the City might not have the hard corner, but it was still a gateway coming into Broken Arrow and was very near the Senior Center and softball complex.

MOTION: A motion was made by Johnnie Parks, seconded by Lisa Ford.

Move to approve Resolution No. 1560

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

C. 24-334 Consideration, discussion, and possible approval of PUD-001265-2024 (Planned Unit Development), and PR-000497-2023|PT-001276-2024, Conditional Final Plat, Sunset Amphitheater, 41.15 acres, 3 Lots, PUD-001265-2024/A-1, located one-half mile north of New Orleans Street (101st Street), three-quarters of a mile west of Evans Road (225th East Avenue), east of the Creek Turnpike

Acting Community Development Director Grant Rissler indicated this was the PUD for the Amphitheater. He asked Charlie Bright to present the PUD.

City Manager Spurgeon announced Charlie Bright was promoted to the position of Director of Engineering and Construction. He congratulated and commended Mr. Bright.

Director of Engineering and Construction Charlie Bright stated this was for the PUD and plat associated with the Sunset Amphitheater. He stated Broken Arrow signed an Economic Development Agreement with Notes Live which indicated Notes Live would provide an Amphitheater for 12,500 people, and the City of Broken Arrow would provide the surrounding infrastructure. He stated the City was working diligently with the consultant, Kimley Horn, and finished the plat and PUD. He noted there were a few exceptions in the PUD, one was to allow off-site advertisement for this facility via a billboard facing the highway. He stated there were some exceptions where the City would not require sidewalks along commercial streets which normally were required on both sides, but this was intentional to prevent visitors from walking along certain routes and guide visitors to walk in a certain direction. He stated Mr. Bob Mudd from Notes Live was present to answer questions.

Council Member Ford stated she was glad the City was not building sidewalks it did not need.

City Manager Spurgeon asked Mr. Mudd to answer the questions asked by Ms. Schultz earlier in the meeting.

Mr. Bright explained Mr. Mudd was best suited to answer most of Ms. Schultz's questions and concerns, but in terms of the direction the Amphitheater faced, it could not face due north as it was too wide to be positioned so on the property. He stated in a perfect world, the Amphitheater would be positioned directly north, but with the property, it had to be positioned either northeast or northwest.

Mr. Bob Mudd stated there were two questions he recalled, the first was related to the speakers used by artists. He explained artists were permitted to utilize their own speakers; however, the Amphitheater would require certain mounting heights, the nature of the form and layout of the speakers, and sound detection devices would be utilized at the periphery of the property to ensure volume levels were within the indicated limits, and finally, the Amphitheater adjusted its hours of operation to suit the needs of the school. He stated dba was an average of sound waves and was the most commonly used method, by law and practice, to measure the impact of sound on surrounding neighborhoods. He stated the sound study illustrated a typical show high level at 100 dba at the front of the house and how it would affect the surrounding neighborhoods. He noted also sound studies in the form of L90 and L10 were provided which accommodated for much higher levels of sound. He stated caps would be included in the riders with the artists which mandated the Amphitheater's ability to operationally intervene if the artists were to go above the sound restrictions Notes Live had committed to. He stated at the request of a number of neighbors, a footprint assessing the number and impact of the potential different directions of the Amphitheater was done, and the northeast position was by far the most suitable for the Amphitheater.

City Manager Spurgeon noted another question was, would the Amphitheater be measuring the sound during concerts; if a resident called the City with a complaint, would Sunset Amphitheater be able to respond.

Mr. Mudd responded in the affirmative noting Sunset Amphitheater would also be happy to provide quarterly or monthly reports of the sound levels. He noted sound levels were monitored continuously. He stated there was an operations center at the facility. He indicated there were two places the sound detection devices reported, one was to front of the house, and the other was to the operations center which was adjacent to the police station being incorporated into the facility; therefore, the Amphitheater would have operational controls and reporting.

City Manager Spurgeon stated there was one more question related to the report provided to the Planning Commission.

Mr. Mudd stated he shared the sound maps (sound studies) at the Planning Commission showing the northeast and northwest disposition options of the Amphitheater.

Ms. Schultz asked if noise were coming into her home, would the Amphitheater be willing to lower the dba or the sound speakers to prevent sounds from the Amphitheater from permeating her home.

Mr. Mudd stated Notes Live made many commitments in relation to sound levels, and Ms. Schultz was making a very subjective request, and he was unsure exactly what Ms. Schultz was asking. He noted outside noises could often be heard inside homes, such as traffic noises. He stated regardless, Notes Live, or Sunset Amphitheater, made very specific commitments and would stick to said commitments. He indicated Notes Live was also open to feedback; if there were things which could be done better in the context of what was agreed to, Notes Live would always be open to feedback.

MOTION: A motion was made by Christi Gillespie, seconded by Justin Green.

**Move to approve PUD-001265-2024 (Planned Unit Development), and
PR-000497-2023|PT-001276-2024, Conditional Final Plat, Sunset Amphitheater, 41.15
acres, 3 Lots, PUD-001265-2024/A-1, located one-half mile north of New Orleans Street
(101st Street), three-quarters of a mile west of Evans Road (225th East Avenue), east of
the Creek Turnpike**

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

10. Preview Ordinances

A. 24-285 Consideration, discussion, and possible preview of an Ordinance of the City of Broken Arrow amending Chapter 6, sections 6-22, 6-46, 6-96, 6-97, 6-130, 6-164, 6-301 of the Code of Ordinances. These amendments will remove the requirement of contractors to deposit and maintain an escrow account balance to utilize the permitting services of the City of Broken Arrow and repeal all ordinances to the contrary
Mr. Grant Rissler explained currently, according to Ordinance, a contractor or tradesperson licensed in Broken Arrow was required to put funds in an escrow account; these amendments removed those requirements, but still allowed a contractor or tradesperson to utilize an escrow account if it wished.

Council Member Parks stated he read the amendments, and he felt these were beneficial.

MOTION: A motion was made by Johnnie Parks, seconded by Lisa Ford.

Move to preview the Ordinance and set it for adoption

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

B. 24-328 Consideration, discussion, and possible preview of Ordinance No. 3825, an amendment adding to Broken Arrow Code of Ordinances Chapter 23, Article IV; Stopping, Standing, and Parking; Section 23-148 - Parking Prohibited overnight between the hours of Friday at Midnight to Saturday at Noon at 400 S. Main
Mr. Rissler indicated public parking signs were installed in the Rose District last fall. He stated this amendment prohibited overnight parking in the parking lot immediately west of the Museum BA on Friday evenings because overnight parking Friday evening in this lot made set up for the Farmers Market on Saturday morning very difficult or impossible. He stated if this were approved, the City would modify the sign for this specific parking lot. He explained why this would be a year round requirement as opposed to a seasonal requirement.

Council Member Green noted there were plenty of other places to park overnight on Friday.

Mr. Rissler agreed.

Council Member Parks asked if the History Museum approved of this restriction. He noted part of this parking lot would be used for a building expansion in the future.

The History Museum had no objections.

MOTION: A motion was made by Christi Gillespie, seconded by Lisa Ford.

Move to preview the Ordinance and set it for adoption

The motion carried by the following vote:

Aye: 5 -
Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

11. Ordinances

There were no Ordinances.

12. Remarks and Inquiries by Governing Body Members

Mayor Wimpee stated City Council would be leaving for Washington D.C. for the National League of Cities Congressional Conference next week. She stated all City Council Members served on different NLC Boards and Commissions and would be meeting with the Boards and Commissions during the Conference, and on Wednesday would meet with the Legislators.

Council Member Parks indicated he and Council Member Green would be leaving with the Youth City Council for Washington D.C. at 5:00 a.m. on Saturday.

Mayor Wimpee announced ShamRock the Rose was on March 16th, 2024. She invited all to attend.

Vice Mayor Gillespie noted the weather should be perfect for the event. She read the First Amendment about freedom of religion, speech, and press.

Council Member Ford stated last evening Broken Arrow Police Department, Broken Arrow Public Schools, and others had an excellent evening educating the public about human trafficking. She stated the presentation was available on the Broken Arrow Police Department's Facebook page if any wished to view it. She stated it was well attended and all of City Council was present.

Mayor Wimpee agreed and indicated there were many excellent tips provided for parents.

Council Member Green stated this was Read Across America week in public schools and he had the privilege to read to second graders this morning. He noted he and some of Chief Berryhill's men would be reading tomorrow as well.

Council Member Ford stated she was reading Friday, and she was excited. She noted the students loved to have visitors come in to read.

Mayor Wimpee stated she read to the children on Tuesday.

13. Remarks and Updates by City Manager, including Recognition of Recent Accomplishments by Employees and Elected Officials

City Manager Spurgeon announced next week was budget week for fiscal year 2025. He stated he looked forward to seeing the proposals from the Directors, as well as recommendations for the City. He stated the traditional budget hearings would be held in May. He reported the Survey closed last Thursday and the City received over 3,900 responses which was excellent, and over 3,600 of the responses were from residents of Broken Arrow. He stated the results would likely be presented in April. He reported on February 22 and February 23, himself, Vice Mayor Gillespie, and Mayor Wimpee visited with the RUSO Board (Regional University Systems of Oklahoma) to request NSU become a traditional 4 year university. He stated he believed this meeting was impactful and he would meet with Dr. Hanley next week to discuss next steps. He indicated he anticipated bringing a Resolution to City Council soon which memorialized City Council's continued support for this transition to a 4 year university. He stated he would like two City Council Members to form a subcommittee to a higher education subcommittee and represent the City's position during RUSO Board meetings when necessary.

Mayor Wimpee stated this transition was long overdue and some excellent statistical points were presented regarding the RUSO universities producing the Oklahoma state workforce and the importance of encouraging Broken Arrow youth to stay within the area upon entering the workforce. She indicated Tulsa Achieve, and how Wagoner County children were excluded from Tulsa Achieve, was also discussed.

Vice Mayor Gillespie stated over one third of Broken Arrow students lived in Wagoner County; 35 percent of Broken Arrow public school students lived in Wagoner County. She

explained currently, NSU and all other area universities were not allowed to offer first and second year courses, so if a Broken Arrow student wished to attend university, said student had to leave the area to attend the first two years of school which caused a decrease in the youth population. She stated as such, often the youth of Broken Arrow do not return to Broken Arrow because they got a job, or got married to someone not in the Broken Arrow area, etc. She stated often these couples would move back to Broken Arrow when it came time to have children, but Broken Arrow often lost its youth from ages 20 to 35 which she felt was directly related to this problem.

City Manager Spurgeon stated he appreciated the City Council's support in this matter.

At approximately 8:23 p.m. Mayor Wimpee noted there was an Executive Session and called for a recess for BAMA and BAEDA.

MOTION: A motion was made by Christi Gillespie, seconded by Lisa Ford.

Move for a recess for BAMA and BAEDA

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

At approximately 8:27 p.m. City Council reconvened, and Mayor Wimpee called for a motion to clear the room for the Executive Session.

MOTION: A motion was made by Lisa Ford, seconded by Johnnie Parks.

Move to clear the room for Executive Session

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

At approximately 8:35 p.m. City Council entered into Executive Session.

MOTION: A motion was made by Debra Wimpee, seconded by Justin Green.

Move to enter into Executive Session

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

14. Executive Session

Executive Session for the purpose of confidential communications between the City Council, the City Manager, the City Attorney and any other pertinent staff members discussing, conferring on matters and possible action in open session pertaining to:

(1) A pending investigation and claim, including potential resolution, of a matter involving the tort claim of the Estate of Jason England, Tort Claim No. TRT 1473.2024 and taking appropriate action in open session, if any, under 25 O.S. §307(B)(4);

(2) A pending investigation and claim, including potential resolution, of a matter involving the tort claim of the Estate of Katherine England, et al., Tort Claim No. TRT 1475.2024 and taking appropriate action in open session, if any, under 25 O.S. §307(B)(4);

In the opinion of the City Attorney, the Council is advised that the Executive Session is necessary to process the claims and litigation and disclosure will seriously impair the ability of the public body to process the proceedings in the public interest. Moreover, that the Executive Session is necessary to protect the confidentiality of the investigation and potential litigation. After the conclusion of the confidential portion of executive session, the Council will reconvene in open meeting, and the final decision, if any, will be put to a vote.

MOTION: A motion was made by Christi Gillespie, seconded by Justin Green.

Move to find the Executive Session necessary

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

Council Member Parks recused himself from the remainder of the Executive Session and left the room.

MOTION: A motion was made by Christi Gillespie, seconded by Justin Green.

Move to deny the tort claims filed by the Estate of Jason England

The motion carried by the following vote:

Aye: 4 - Justin Green, Lisa Ford, Christi Gillespie, Debra Wimpee

Recused: 1 - Johnnie Parks

MOTION: A motion was made by Christi Gillespie, seconded by Justin Green.

Move to deny the tort claims filed by the Estate of Katherine England

The motion carried by the following vote:

Aye: 4 - Justin Green, Lisa Ford, Christi Gillespie, Debra Wimpee

Recused: 1 - Johnnie Parks

City Council returned to open session at approximately 8:49 p.m. Council Member Parks returned to open session at approximately 8:51 p.m.

15. Adjournment

The meeting was adjourned at approximately 8:51 p.m.

MOTION: A motion was made by Johnnie Parks, seconded by Christi Gillespie.

Move to adjourn

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

Mayor

City Clerk