



City of Broken Arrow

Minutes City Council

City Hall
220 S 1st Street
Broken Arrow OK
74012

Mayor Craig Thurmond
Vice-Mayor Scott Eudey
Council Member Mike Lester
Council Member Johnnie Parks
Council Member Debra Wimpee

Tuesday, November 21, 2017

Time 6:30 p.m.

Council Chambers

1. Call to Order

Mayor Craig Thurmond called the meeting to order at approximately 6:30 p.m.

2. Invocation

Rich Manganaro delivered the invocation.

3. Roll Call

Present: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

4. Pledge of Allegiance to the Flag

Vice Mayor Scott Eudey led the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

Mayor Thurmond stated that there was someone that wished to speak on Item 5H and asked if there were any more items that need to be removed from the Consent Agenda. There were none.

MOTION: A motion was made by Mike Lester, seconded by Johnnie Parks.

Move to approve Consent Agenda excluding Item H

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

- A. 17-1710 Approval of City Council Meeting Minutes of November 7, 2017**
- B. 17-2893 Approval of and authorization to execute Resolution No. 1067, a Resolution concerning Bridge Inspection responsibility by local government for compliance with National Bridge Inspection Standards, Bridge Inspection Contracts and selecting Guy Engineering, Inc. to perform the 2018 inspections for April 1, 2018 to March 31, 2020**
- C. 17-2894 Approval of and authorization to accept Allstate Insurance Company's offer to settle a claim for a 2007 Chevrolet Malibu vehicle loss, declaring the vehicle surplus and releasing it to Allstate Insurance Company**
- D. 17-2914 Approval of and authorization for the Broken Arrow Public Schools to place a temporary hiring banner at the southeast corner of Kenosha and 9th Street, on City property, outside the intersection rights-of-way (BAPS Banner)**
- E. 17-2885 Approval of and authorization to execute the Fifth Amendment to the Capital Improvements Agreement by and between the Board of County Commissioners of Tulsa County, Oklahoma, and the City of Broken Arrow related to the Rose District Improvements Project**
- F. 17-2887 Approval of and authorization to execute a Capital Improvements Agreement by and between the Board of County Commissioners of Tulsa County, Oklahoma, and the City of Broken Arrow related to the Rose District Improvements Project, (Streetscape V)**
- G. 17-2818 Notification of City Manager's or City Manager's designee execution for Professional Consulting Contractual Services with a value less than \$25,000**
- H. 17-2825 Approval of and authorization to execute a Services Contract between the City of Broken Arrow and ArtsOK to assist with the development and programming of the Center for Arts, Innovation and Creativity**
- I. 17-2903 Approval of and authorization to purchase salt and sand spreaders from Southwest**

Trailer for the Streets Division pursuant to the State of Oklahoma Contract SW500

- J. 17-2902 Approval of and authorization to purchase three (3) snow plows with hitches from Southwest Trailer for the Streets Division pursuant to the State of Oklahoma Contract SW500**
- K. 17-2900 Reject bid awarded to Defender Supply for the purchase of police vehicle lighting equipment and award the most advantageous bid to 911 Custom**
- L. 17-2906 Approval of bids received and award the most advantageous bid to Kubota Construction Equipment for the purchase of a 2017 Kubota SVL95-2SHFC Rubber Tracked Skid Steer Loader**
- M. 17-2895 Award of the lowest responsible bid to Voy Construction, LLC for Schedule A Base Bid with Additive Alternate No. 2 (Playground) and Schedule B Base Bid (Picnic Pavilions) and approval of and authorization to execute a construction contract for Events Park Playground and Picnic Pavilions (Project Nos. 176038 and 176040)**
- N. 17-2872 Approval of PT17-111, Preliminary/Conditional Final Plat, Vaquero Addition, being a replat of Lot 1, Block 1 Compton Addition II, 2 lots, 1.58 acres, CH, north of Kenosha Street, one-quarter mile west of 9th Street**
- O. 17-2884 Approval of PUD 267 (Planned Unit Development), QuikTrip No. 0050, 4.96 acres, CN, southwest corner of Houston Street and State Highway 51**
- P. 17-2852 Acceptance of a Drainage Easement from Broken Arrow Retail, LLC along the southern boundary of Lot 1A, Block 2 of Northeast Crossroads, located north of the northeast corner of Kenosha Street and 209th Street (Section 5, T18N, R15E)**
- Q. 17-2897 Acceptance of a Mutual Access and Utility Easement on a portion of unplatted property south of Houston Street, one-quarter mile west of 23rd Street**
- R. 16-1596 Approval of the Broken Arrow City Council Claims List for November 21, 2017**

6. Consideration of Items Removed from Consent Agenda

Mayor Thurmond stated Karyn Maio requested to speak regarding Item H.

Citizen Karyn Maio stated she had some questions about Item H, the Services Contract between the City of Broken Arrow and ArtsOK. She stated up until March of 2017 she had been working with a committee on this and she wondered if the committee with Dr. Huckabee and others had been dissolved. Mayor Thurmond responded in the negative. She stated the City of Broken Arrow had \$1.4 million dollars for this project which had been ear-marked specifically for building. She asked if the agreement could be rolled into the \$1.4 million. Mayor Thurmond asked if she meant the bond. She replied in the affirmative. Mayor Thurmond stated the G.O. Bond was for building only and a service contract could not be rolled into it. Ms. Maio stated in March there was a second design architect involved, and she asked if there was now a third design architect. City Manager Michael Spurgeon replied in the negative; Mr. Mark Frie would be working with the current architect based on the design that had been completed up to this point. Ms. Maio asked if the design was the same as it was in March. City Manager Spurgeon replied in the affirmative. Ms. Maio asked about the operation and capital budgets that been proposed in March. City Manager Spurgeon replied the capital outlay for the project was unchanged. He reported Council had not yet received a presentation regarding the building design. He explained that during the budget session back in June, the Council members wanted the administration to work with the Arts council to try to find some operational funding for the project and to secure the operational funding before publicly bidding the project. Ms. Maio stated she had sent an email to ArtsOK in an effort to clarify the position of the Broken Arrow Community Playhouse within ArtsOK and she had not received a response from them as of yet. She stated the Broken Arrow Community Playhouse did not know what its working relationship would be with ArtsOK; ArtsOK had the Broken Arrow Community Playhouse as a venue, but she stated she did not understand how the Broken Arrow Community Playhouse fit in the disclaimer at this point. She stated she could not commit her board to the ArtsOK project without a better understanding. She asked City Council to encourage ArtsOK to better communicate with her and the Broken Arrow Community Playhouse. Vice Mayor Eudey stated he felt it was appropriate for the Broken Arrow Community Playhouse and ArtsOK to communicate and he would be glad to assist in facilitating correspondence. He stated he was certain Mayor Thurmond felt the same. Mayor Thurmond agreed. Ms. Maio thanked City

Council for answering her questions.

City Manager Spurgeon asked to clarify briefly for full disclosure. He stated in 2008 the residents of Broken Arrow approved \$1.4 million dollars for the Creative Arts Center which was a re-appropriation from an earlier award. He stated, in addition, the City Council committed approximately \$2.6 million dollars from Vision surplus to be combined with the \$1.4 million dollars. He reported for the last three years a search had been conducted for building operations funding. He explained in discussing operational funding with the ArtsOK board he had been informed that Mr. Mark Frie had taken over for Dr. Huckabee in marketing responsibilities. He stated he expressed to the board members the concern the governing body had regarding building construction without an operational plan. He stated Item H was a services contract not to exceed \$30,000 to be paid out of Tourism Funds, which had also been used to pay Dr. Huckabee. He stated \$15,000 would be used to pay Mr. Frie for his time and efforts, along with another \$15,000 to be used for marketing materials and travel. He explained Mr. Frie understood the City was ready to “fish or cut bait” in regards to the Creative Arts Center, and Mr. Frie was confident within the next six months he would find patrons willing to make a long term commitment to the Creative Arts Center. He stated he asked Mark to expedite the review because in six months City Council would be making General Obligation Bond package decisions regarding phase two of the ArtsOK project. He explained from his perspective as administration, he would like to see this progress; if \$1.5 million dollars were raised in funding, his recommendation would be to move forward with and bid phase one of the project which was fully functional, and then consider phase two as a part of the General Obligation Bond package. He stated he was asking the City Council to consider funding \$30,000 to determine if the long term operational funds could be found to move forward with the project; otherwise, decisions needed to be made regarding the re-appropriation of the voter approved \$1.4 million dollars as a part of the next bond package and whether the \$2.6 million dollars that was encumbered in terms of vision funding should be freed up for other economic developments or possibly similar type endeavors.

Council Member Johnnie Parks asked where the facility would be located. City Manager Spurgeon responded the corner of Dallas and Main Street. City Manager Spurgeon stated as part of a private investment Arkansas Valley Bank (AVB) had agreed (not in writing, but verbally) to make the property available and to raze the building down to dirt. He stated AVB was also discussing donating operational funds if Mr. Frie could find matching contributors. He indicated that he was excited about the possibilities. Vice Mayor Eudey stated as a member of the ArtsOK Board the same discussion was being held at the board meetings. He stated the Board understood that ArtsOK needed to demonstrate it could be sustained. He stated this was being viewed as a last attempt to see what funding could be developed. Mayor Thurmond asked if there were any more questions or discussion. There were none.

MOTION: A motion was made by Johnnie Parks, seconded by Mike Lester.

Move to approve the Services Contract with ArtsOK and authorize its execution

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

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

There are no Public Hearings, Appeals, Presentations, Recognitions, or Awards.

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 Thurmond stated no Citizens had signed up to speak.

9. General Council Business

- A. 17-2883 Consideration, discussion, and possible action regarding PUD 266 (Planned Unit Development) and BAZ-1986 (rezoning), Centennial Crossing, 19.64 acres, A-1 to PUD 266/RM, east of North Elm Avenue, one-quarter mile south of Omaha Street**
Mayor Thurmond and Vice Mayor Eudey left the room at approximately 6:41 p.m.

Plan Development Manager Larry Curtis stated Planned Unit Develop PUD-266 and BAZ-1986 involved 19.64 acres of undeveloped tract located east of North Elm Avenue, one-quarter mile south of Omaha Street. He reported on September 15, 2015 the City Council approved BACP-146 to change the Comprehensive Plan designation on the property from level 2 to level 3, subject to the property being platted and a PUD being submitted that was similar in context to the draft PUD submitted for BACP-146. He stated PUD-266 was similar in context to the draft PUD submitted with BACP-146 and a summary of the differences between the PUD, PUD-266 and what the zoning ordinance required was provided with the Council’s information packet. He reported in the Meeting of October 12, 2017 the Planning Commission recommended approval by a vote of 4 to 1 of PUD-266 and BAZ-1986, subject to the property being platted. He stated during the public hearing the property owner to the south spoke in support of the application, but was concerned by the reduction of the width of the landscape buffer along the south boundary from 35 feet to 25 feet.

He stated three residents in the Country Lane addition to the east expressed concerns regarding the impact of the development; including traffic, crime, and what affect the development would have on the Country Lane neighborhood. He stated staff requested PUD-266 and BAZ-1986 be approved as recommended by the Planning Commission. He stated he would be happy to answer any questions. He stated the applicant was also in attendance to answer questions.

Council Member Parks asked if the property was located just south of the school. Mr. Curtis responded in the affirmative. Council Member Parks stated Kansas Street was a dead end street which was currently a problem area, especially related to school traffic loading and unloading. He stated Kansas Street had originally been intended to be completed to bring traffic from the subdivision to Elm Place. He stated he did not see plans to provide relief for this problem in the information package. He asked if Fire and Police had signed off on this project. Mr. Curtis stated the connection went down to Indianapolis instead of Kansas Street, which was one street south. He explained within the PUD there was a line, or a street, indicating it would be connected to Indianapolis Street instead of Kansas Street which was the more direct connection and helped traffic flow in a more southerly direction. Council Member Parks asked if it would tie back into Elm Place. Mr. Curtis replied in the affirmative, Elm Place to the west and Indianapolis to the south. Council Member Parks asked how the problem regarding loading and unloading school children was being addressed. Mr. Curtis responded this issue was taken into consideration. He explained a new road and a sidewalk was designed to make this a safer situation for the children and he reviewed how with a displayed map of the proposed construction. Council Member Parks asked whether a turnaround was being considered for the Kansas Street dead end. Mr. Curtis stated Kansas Street was currently to dead end into the proposed regional detention pond. He stated if City Council wished, it could direct City Staff to indicate a turn around be associated with the project. Council Member Parks stated he would like Police and Fire to review the situation, to make sure it was not dangerous dropping children off at this location. Mr. Curtis agreed. He stated the good thing was Item A was just the rezoning, and there would be a site plan and a plat which would involve Police and Fire input regarding the engineering of the project. Council Member Lester asked if there were any other questions for Mr. Curtis. There were none.

Alan Betchan with AAB Engineering, LLC stated his address was 200 North McKinley in Sand Springs. Mr. Betchan stated Item A was the implementation of the original plan amendment presented several years ago. He stated there were two development areas. He explained the existing water detention facility on the southern side of the school was to be modified and incorporated with the development to create a regional detention facility that would accommodate all of the detention needs for this project, the school, and the future development that would happen between this project and the residences to the east. He stated it would be difficult to extend Kansas Street and make the connection as there was a large amount of drainage that went through there. He explained this was an existing problem which AAB hoped to improve with this project. He stated Item A was the first phase, which did not cover the gap between the proposed apartment zoning and residential to the east. He explained the land between the two would remain as AG (Agricultural). He stated he believed it would become single family eventually; however, currently plans were to stub the street and construct a cul-de-sac which would open up the area and create a momentum for eventual development of the rest of the area. He stated additional connectivity roads were to be built for the school; this was a joint effort with the school system to determine the best traffic pattern for the schools, as well as the development, encircling the entire area and filling in the current gaps. Council Member Lester asked if he had been in contact with the schools regarding this development and how it would impact the school traffic pattern. Mr. Betchan responded in the affirmative; the developers had been in extensive communication with the schools. Council Member Lester stated he had heard the school was considering a change in the bus loop. Mr. Betchan stated he could not speak to the operation changes, but he knew there was a lot of discussion specifically about having a connection at the southern end for the bus loops, to create an exit point onto that street, and specifically for the design of that street. He explained it was being designed to accommodate the bus movements into and out of the school. Council Member Lester asked if there were any other questions for Mr. Betchan. Council Member Parks asked if the street to the north could not be extended out due to it being a possible flood area, Mr. Betchan stated that was correct.

Council Member Lester stated there were five citizens who signed that they did not wish to speak, but were in opposition to Item A, and have been duly noted. He stated there were two citizens in opposition who wished to speak.

Citizen Nicole Arms stated her address was 3301 North 4th Street. She stated she was a proud citizen of Broken Arrow. She stated she would like to appeal this updated planning. She stated she did not understand the proposed apartment buildings and asked if this was to be low income apartments, or a more upper class apartment complex. She explained she had to consider her future in 20 years. She stated she would retire eventually and she did not intend to move again, so she was trying to get an idea of what her surroundings would look like in 20 years. She stated she was concerned as the apartments would back up to her neighborhood; would there be a fence around it or a brick wall, what could be done to make the neighborhood appear upgraded and ensure low

crime levels. She stated her child attended school in the area, and she was happy there were less than 1,000 children enrolled this year. She stated every child had an assigned locker which was a very big deal to the children. She stated she worried the school system could not handle the overcrowding and worried how this would affect the current homeowners and tax payers who had moved to the area to ensure a good education for their children. She stated she was concerned about the overall safety of her children in an overcrowded area.

Citizen Erin Duin stated her address was 524 East Helena Street in the Country Lane Estates subdivision. She stated her first concern was safety. She stated there were at least 2,000 children between the three schools in the area. She reported last year she had counted over 600 children who walked home from school through the area where the apartments were intended to be. She stated she was concerned about this. She stated she understood apartment complexes ran background checks, but not everyone was honest about who was living in an apartment; there could be undocumented roommates and undocumented friends spending a great deal of time at the apartments. She stated the proximity of the apartments to Country Lane Intermediate (CLI), especially with upper level apartments, provided opportunities for predators to watch the children at recess, as well as walking to and from school. She reported at Country Lane Intermediate (CLI) and Country Lane Primary (CLP) there were parents who walked children to and from school, however, the children who walked back and forth from Centennial Middle School did not usually have parental supervision. She stated the safety of these children was her number one concern. She indicated that she was also concerned about the water retention. She reported a couple of years ago her neighbors homes came very close to flooding and the water retention is still not up to par. She worried this would only get worse. She stated she did not understand why more apartments were being built. She reported she did a calculation and in a 5 mile span from 129th Street at 51st Street, down to 61st street across the Broken Arrow Expressway to 193rd Street, there were 2,982 apartments. She reported this was nearly 3,000 apartments in a 5 mile span and a number of them were already very close to her home. She stated she lived on Helena Street which had the Park of Mission Hills next to her, as well as the Crown Village Apartments right behind Centennial. She stated she did not understand why Broken Arrow needed 300 more apartments in the area. She stated when Crown Village Apartments were built she had been told the proposed new apartments were supposed to be single family homes. She stated she was concerned about the safety and overcrowding problems which would arise from the construction of more apartments in her area.

Council Member Lester asked if Mr. Alan Betchan wanted to address these issues. Mr. Betchan stated in regard to the population levels and the schools, it was his understanding after talking to the schools that there were a surprisingly small number of students attending school who lived in the existing apartment complex to the south. He stated on average more students were produced by single family home areas than apartment areas. He stated this was one of the reasons the school was in agreement with negotiations. He stated the project AAB was proposing today did not abut the residences to the east; he was not saying it would not have an impact on them, but there was a sizeable green space gap between the two, and there was also the natural drainage. He stated at some point in time, the street would come through and connect with the future development, but that was not what was proposed today. He stated the connections from a walkability standpoint would not be realized with the development today. He stated from a safety perspective the apartments would turn in to face themselves and there was a substantial green space buffer required around all perimeters of the apartments by code and by the PUD; therefore, the number of interactions with individuals when compared to possible encounters walking through a single family neighborhood was actually probably less if realistically considered. He stated Item A was the implementation of the plan amendment. He stated as far as future development of the land to the east into apartments, there was a long process which included presentation to Council, a zoning case, and a plan amendment case; the same process AAB went through and was going through now. He stated this project was utilizing a macro concept and a macro look at the area in an effort to address the problems as a whole, from an access standpoint, connectivity standpoint, and most importantly a drainage standpoint. He stated functionally this PUD and the Broken Arrow City Code did not support the economics of low income apartments. He stated the masonry requirements, the facades, the densities all would demand higher rent just from an economic standpoint to ensure economical viability. He stated this project had standards beyond code requirements as far as the masonry and specific rock and stucco materials, which would result in a high level product equivalent to what was seen to the south. He stated it was similar to the other apartments which had come online recently and had been approved, and was considered a nicer level, class "A" apartment concept. He stated this conformed to what was brought forward and was more stringent in many ways, and he believed AAB made a good effort to address all the issues. He asked if there were questions.

Council Member Lester asked if the proposed regional detention area was going to make use of the current detention area. Mr. Betchan replied in the affirmative; it would incorporate the old detention area creating a combined system. Council Member Lester stated he felt the current detention facility was too small. Mr. Betchan stated generally speaking, from a pure hydrology and engineering standpoint, less ponds are better; more consolidation equaled more macro impact and more understanding of the system as a whole. He stated the combined system would place a

single pond at the downstream end where it left the combined properties, and to that point AAB would have a very good grasp of what it was doing and the impacts on the downstream system. Council Member Parks asked what the acreage was of the remaining parcel of land. Mr. Betchan replied he thought it was 15 acres total with 10 developable acres due to the drainage fields. Council Member Parks stated the street would not tie in until this last acreage was developed. Mr. Betchan agreed. Council Member Parks asked if the new street for the bus routes would be built with this development. Mr. Betchan responded in the affirmative; today AAB had plans, and were working through engineering, for platting of what he presented: two lots with the associated infrastructure. He stated the street, the detention facility, the associated waterline, and sanitary and sewer to each lot was actively being pursued in planned construction today. He stated he had found apartment developers desired construction ready property from a department development standpoint, so this was what AAB was trying to accomplish. Council Member Parks asked if it was after this was completed that the decisions would be made regarding apartment location, materials, veneers, etc. Mr. Betchan stated the minimum standards were already set, which exceeded code. He stated the detailed site plan review would have to go before the Planning Committee including elevation, detailed layout, lighting, landscaping, materials, etc, making sure it conformed to the PUD or exceeded it. Council Member Parks asked if the detailed site plan would be presented to the City Council. Mr. Larry Curtis stated the only item that would also come before City Council was the conditional final plat. Council Member Lester asked if there were any other questions or final comments.

MOTION: A motion was made by Johnnie Parks, seconded by Mike Lester.

Move to approve PUD-266 and BAZ-1986 as recommended by the Planning Commission and staff

The motion carried by the following vote:

Aye: 2 - Johnnie Parks, Mike Lester
Nay: 1 - Debra Wimpee
Recused: 2 - Scott Eudey, Craig Thurmond

City Attorney Beth Anne Childs stated this meant the motion was not approved because a super majority was required. She stated all three Council Members in attendance for the motion had to vote yes to pass the motion. Motion denied.

Mayor Thurmond and Vice-Mayor Eudey returned to the room at approximately 7:05 p.m.

B. 17-2888 Consideration, discussion, and possible approval of and authorization to execute Amendment No. 3 to an Architect/Engineer Contract with CEC Corporation for Design of Florence Street Widening, Olive Avenue to Aspen Avenue (Project No. ST1410)

Engineering and Construction Director Alex Mills stated before Council was an approval request for an amendment to the Design Contract for the Florence Street Widening Project from Olive to Aspen. He stated the design was funded as a part of the 2014 GO Bond and the design was completed in the year 2014. He stated the remainder of the bonds were getting ready to be sold for construction, with those funds being available spring of 2018. He explained, taking a look at the plans with a fresh look, after being on the shelf for three years, and with the concerns presented to the Council two Council Meetings ago regarding the need for a school crosswalk in that area, the plans had been revisited and modified to include a pedestrian HAWK (high intensity activated crosswalk) signal which would help students cross the street when the project was complete. He stated as part of the amendment the design firm would help with an immediate stop-gap measure, installing an interim crosswalk, as it might be several years before project completion. He asked Council's approval for the amendment. He stated he would be happy to answer questions.

Vice Mayor Eudey stated this was the issue brought before council by several citizens two meetings ago regarding a dangerous school crossing situation. Mr. Mills stated that was correct. Vice Mayor Eudey stated he appreciated the Engineering and Construction Department addressing this issue so promptly and he felt this would be a positive transition. Mr. Mills agreed it was the right decision.

MOTION: A motion was made by Mike Lester, seconded by Scott Eudey.

Move to approve Amendment No. 3 to the Architect/Engineer Contract with CEC Corporation and authorize its execution

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

C. 17-2905 Consideration, discussion, and possible approval of and authorization to execute Change Order C03 for 37th Street: Omaha to Albany and Rural Water District #4 Waterline (Project No. ST1507)

Mr. Alex Mills stated he asked Council for approval for a Change Order. He stated 37th Street, also known as 209th East Avenue, was under construction from Omaha to Albany. He reported a water line replacement was also being conducted along the same stretch of road. He stated this was funded out of the 2014 GO Bond project. He explained construction had been underway since June 2017, but had run into a conflict. He reported Oklahoma Natural Gas (ONG) now felt the high

pressure gas line in the area would be in conflict with the water line which had just been relocated. He stated ONG over the year and a half since he had worked for the City of Broken Arrow, as well as time prior, had ample opportunities through periodic utility coordination meetings during which all plans had been provided, and conflicts discussed, to address this, but only now had ONG decided it needed additional right-of-way to move its high pressure gas line further away from the water line. He stated the Engineering and Construction Department reached out to ONG numerous times and had meetings with ONG. He reported he knew ONG was actively and aggressively pursuing the easement it needed to relocate its line, but he was not sure when ONG would make this happen. He stated ONG hoped to have it completed prior to the end of the year, and he hoped so as well. He stated due to the delays, however, construction was of necessity on hold. He stated the Engineering Department authorized the contractor to be demobilized from the site. He stated before Council was a Change Order which would handle remobilization costs at the time the easement was secured and the gas line relocated. He stated it also covered implementation of erosion control measures, as the site would potentially sit unattended for months before construction could continue. He stated barbed wire fences and other site security measures would be taken. He stated the Change Order request was for \$35,140, and staff recommended approval.

Council Member Lester asked if it had been suggested to ONG that due to ONG's inability to come to a decision on this until now that ONG ought to pay these damages. Mr. Mills stated overtures had been made, but no formal request had been pressed. Council Member Lester asked if signage needed to be installed suggesting the project would continue at a later date. City Manager Spurgeon stated signage had not been discussed, but informing the public the project was on hold was discussed. He stated there was also a similar situation with Lynn Lane; because of ONG's failure to look at the specs and plans in time the project bidding had been pushed back repeatedly. He stated no help has been received from the local representative and he was trying to find the right person within the organization to speak with about this, as this was \$35,000 of tax payers' money the City might have to spend because of ONG's lack of due diligence. Vice Mayor Eudey stated he was upset this also delayed two very important road projects. He stated the fact that the Lynn Lane road project was delayed because of an apparent failure by ONG to properly examine the documents troubled him immensely. Council Member Lester stated residents were going to lay the blame on the City Council and felt it was important to clarify matters to the public. Council Member Parks stated he felt ONG was sending the wrong employees to the utility coordination meetings. Mr. Mills agreed. He stated the Engineering Department had held very strenuous meetings with ONG expressing the City's displeasure. He stated he had escalated this to the Vice President of Operations for this area. He stated the City Manager had reached out to the Coordination Point and no response was being received. Council Member Lester asked if staff had reached out to the Corporation Commission. City Manager Spurgeon responded this was suggested yesterday. He stated the challenge here was if ONG changed its process and procedures Broken Arrow should have been informed long ago. He stated he wanted to maintain good relationships with the utility provider, but not when it cost the City money. Vice Mayor Eudey stated it was not just the money, although that was upsetting; it was the fact that the citizens voted for these projects and expected them to be completed within a specific period of time. He stated the Council had made diligent efforts to move these projects along for the benefit of the citizens, and it was distressing when unnecessary obstacles arose, especially obstacles caused by others that could have been avoided. He thanked Mr. Spurgeon for encouraging ONG to be mindful of how this affected Broken Arrow's citizens. Council Member Parks stated he was very unhappy. He stated ONG needed to have qualified staff members at the utility coordination meetings to make decisions; this was a waste of tax payers' money. Mr. Mills stated there were quarterly utility coordination meetings at which ONG had been provided the completed plans over a year ago. He stated the plan had been adjusted to give them more room for their line and during that entire process ONG never made mention of any further requirements. He stated ONG had known of the construction date for more than 15 months, and now, all of a sudden, the water line is too close to ONG's gas line.

Council Member Parks asked what would happen if Council denied this request. Mr. Mills stated the site needed to be secured. He indicated that the only thing Broken Arrow was not required to do was remobilization, should the contract be canceled, but there would be financial ramifications to contract cancellation which would exceed \$35,000. Vice Mayor Eudey stated he would fear the liability associated with canceling the contract. Council Member Parks asked if ONG understood how the City of Broken Arrow felt about this situation. Mr. Mills stated he and his staff had expressed Broken Arrow's frustration numerous times to every individual at every level he and his staff encountered. Council Member Lester asked if it would be prudent for the Communications Director to notify the media that Broken Arrow was required to shut this project down due ONG's lack of communication. City Manager Spurgeon replied the exact wording of the press release had not yet been determined. Council Member Lester stated he felt it should be strongly worded. Council Member Parks stated the Mayor should request a meeting with ONG upper management to ensure ONG was aware of the unacceptable nature of this delay, and determine if there was a solution.

MOTION: A motion was made by Scott Eudey, seconded by Mike Lester.

Move to approve Change Order C03 for the 37th Street, Albany to Omaha, and Rural

Water District #4 Waterline Project

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

- D. 17-2844** **Consideration, discussion, and possible approval of and authorization to execute Resolution No. 1065, a Resolution authorizing execution of a Financing Agreement between the City of Broken Arrow and BOK Financial Equipment Finance, Inc. to amortize a portion of the costs associated with the purchase of three (3) new ambulances**
Mayor Thurmond stated Item D needed to be tabled until 12/05/2017.

MOTION: A motion was made by Mike Lester, seconded by Scott Eudey.

Move to table Item D until the City Council Meeting on 12/05/2017

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

- E. 17-2904** **Consideration, discussion, and possible approval of and authorization to execute Resolution No. 1068, a Resolution of support for the Tulsa Regional Chamber 2018 OneVoice Legislative Priorities**

Economic Development Coordinator Norm Stephens stated the Tulsa Metro Chamber created the OneVoice agenda to represent the Tulsa Metropolitan Area at the State Capital and at the United States Capital as one unified voice. He reported the City of Broken Arrow participated in the development of the OneVoice Agenda. He asked Zach Stoycoff, Vice President of Government Affairs for the Tulsa Regional Chamber to discuss the OneVoice Agenda.

Mr. Zach Stoycoff stated he was pleased to present the product of another years work collecting the views of the area municipalities, local elected leaders, business community, economic development chambers of commerce, and education at all levels in the region, with a list of State and Federal Legislative Priorities that did not represent the views of one single organization in the Region, but truly the collective views of all in a real public-private partnership. He stated OneVoice was over 10 years old and had been developed through the facilitators at Tulsa Regional Chamber utilizing a strictly volunteer democratic process. He stated he was proud Broken Arrow had significant representation on the OneVoice task force and at the OneVoice Summit. He stated he was proud to have the City, the Chamber and the schools of Broken Arrow, as well as Regional Partners such as Northeastern State University (NSU), Tulsa Tech and others who encouraged economic advancement and quality of life in the Region. He stated he was humbly asking for another vote of support for the 2018 OneVoice Agenda. He reported there were three pillars identified as legislative priorities: healthy educated workforce, ensuring economic environment that was prosperous for business, and building critical infrastructure. He reported a fourth pillar, new this year, was budget stability. He asked for the Council's support.

MOTION: A motion was made by Johnnie Parks, seconded by Debra Wimpee.

Move to approve Resolution No. 1068 and authorize its execution

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

- F. 17-2886** **Consideration, discussion, and possible approval of the nomination and appointment of Karen Chambless to the Broken Arrow Convention and Visitors' Bureau (CVB) Board to fulfill an unexpired term expiring September 30, 2018**

Tourism Director Lori Hill stated Mark Frie recently resigned from the Convention and Visitors' Bureau and left an opening on the board. She stated Mr. Frie's term would end September 30, 2018 and his position fell under Councilman Lester's position who recommended Ms. Karen Chambless to fill this unexpired term. She reported Ms. Chambless was the owner of Extreme Racing and through the Tourism Asset Inventory recommendations Ms. Chambless would fulfill the retail position. She stated she met with Ms. Chambless last week and Ms. Chambless was excited to serve on the CVB should her appointment and nomination be approved.

MOTION: A motion was made by Mike Lester, seconded by Debra Wimpee.

Move to approve the nomination and appointment of Karen Chambless to the Broken Arrow Convention and Visitors' Bureau (CVB) Board to fulfill an unexpired term expiring September 30, 2018

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

10. Preview Ordinances

- A. 17-2912** **Consideration, discussion, and possible preview of an ordinance adopting an employee retirement system, defined contribution plan for the position of City Manager for the City of Broken Arrow, Oklahoma; providing retirement benefits for eligible employees of City of Broken Arrow, Oklahoma; providing for purpose and organization; providing for definitions; providing for eligibility and participation; providing for employer and employee contributions; providing for accounting, allocation, and valuation; providing benefits;**

providing for required notice; providing for amendments and termination; providing for transfer to and from other plans; creating a committee and providing for powers duties, and rights of committee; providing for payment of certain obligations; providing for duration and payment of expenses; providing for effective date; providing for vesting schedules; providing for a fund to finance the system to be pooled with other incorporated cities, towns and their agencies and instrumentalities for purposes of administration, management, and investment as part of the Oklahoma Municipal Retirement Fund; providing for payment of all contributions under the system to the Oklahoma Municipal Retirement Fund for management and investment; providing for non-alienation of benefits and loss of benefits for cause; adopting those amendments mandated by the Internal Revenue Code; providing for repealer and severability; and declaring an emergency

City Attorney Beth Anne Childs stated the Human Resources Director was responsible for this ordinance and worked diligently with OMRF (Oklahoma Municipal Retirement Fund) to set up a separate incentive plan as provided for in the City Manager's contract. Ms. Childs stated the Human Resources Director coordinated with OMRF to prepare the ordinance and the fact sheet. She stated in order to implement the program Council needed to preview and adopt the ordinance; all relevant documents were provided.

MOTION: A motion was made by Mike Lester, seconded by Debra Wimpee.

Move to preview the ordinance and set it for adoption

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

11. Ordinances

- A. 17-2890** **Consideration, discussion, and possible adoption of Ordinance 3503, an ordinance amending Chapter 15, Article I, in General, Section 15-1. - Nuisance code, Article II, Property Maintenance Code, Section 15-44. - Adopted, Sec. 15-45. - Amendments, specifically amending to adopt the 2015 International Property Maintenance Code, of the Broken Arrow Code; repealing all ordinances to the contrary, and declaring an emergency**

City Attorney Beth Anne Childs stated this ordinance was previewed at the last City Council meeting. She stated the revisions provided for in this Chapter incorporated the 2015 International Property Maintenance Code. She requested Council adopt Ordinance No. 3503 and approve the emergency clause.

MOTION: A motion was made by Johnnie Parks, seconded by Mike Lester.

Move to adopt Ordinance No. 3503

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

MOTION: A motion was made by Scott Eudey, seconded by Mike Lester.

Move to approve the emergency clause

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

12. Remarks and Inquiries by Governing Body Members

There were no remarks or inquiries by Governing Body Members.

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

Mr. Spurgeon wished City Council on behalf of the employees and the citizens of Broken Arrow to have a happy and thankful Thanksgiving.

Mayor Thurmond stated there would be an Executive Session so he called for a brief recess to enter into the Broken Arrow Municipal Authority and the Broken Arrow Economic Development Authority meetings at approximately 7:25 p.m.

MOTION: A motion was made by Mike Lester, seconded by Johnnie Parks.

Move for brief recess to meet for Broken Arrow Municipal Authority and Broken Arrow Economic Development Authority

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

At approximately 8:03 Mayor Thurmond reconvened the meeting and called for a motion to enter into Executive Session.

MOTION: A motion was made by Mike Lester, seconded by Johnnie Parks.

Move to enter into the Executive Session

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

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 and conferring on matters pertaining to:

- 1. Litigation, including potential resolution, of a matter involving the tort claim of John Martin vs. City of Broken Arrow, and taking appropriate action in open session, including possible authorization to settle this litigation, under 25 O.S. §307(B)(4); and**
- 2. litigation, including potential resolution, of a matter involving the matter of Premier Site Development, LLC v. City of Broken Arrow, et al, Case No. CJ-2013-00473, in the District Court of Tulsa County, State of Oklahoma, and taking appropriate action in open session, including possible authorization to settle this litigation, 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 pending claims, litigation and possible litigation in the public interest. 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.

At approximately 8:04 p.m. Mayor Thurmond reconvened the regular session of the City Council meeting and the room was opened to the public.

MOTION: A motion was made by Scott Eudey, seconded by Mike Lester.
Move to find that the Executive Session was necessary to process the tort claim and litigation in the public interest

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

MOTION: A motion was made by Scott Eudey, seconded by Mike Lester.
Move to deny the claim filed by John Martin

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

MOTION: A motion was made by Scott Eudey, seconded by Mike Lester.
Move to ratify the filing of the application for court costs in the Premier Site Development case

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

15. Adjournment

The meeting adjourned at approximately 8:05 p.m.

MOTION: A motion was made by Scott Eudey, seconded by Johnnie Parks.
Move to adjourn

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

Attest:

Mayor

City Clerk