



City of Broken Arrow

Minutes
City Council

City Hall
220 S 1st Street
Broken Arrow OK
74012

Mayor Craig Thurmond
Vice Mayor Richard Carter
Councilor Mike Lester
Councilor Johnnie Parks
Councilor Scott Eudey

Monday, June 20, 2016

Time 6:30 p.m.

Council Chambers

1. Call to Order

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

2. Invocation

Chaplain Scott Keele delivered the invocation.

3. Roll Call

Present: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

4. Pledge of Allegiance to the Flag

Vice-Mayor Carter led the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

Mayor Thurmond stated that he had been requested to table item U indefinitely, and pull item F from the Consent Agenda.

MOTION: A motion was made by Mike Lester, seconded by Richard Carter.

Move to approve the Consent Agenda, excluding items U and F

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

Councilman Lester commented that he wished to pull item F to make note that it dealt with professional services that marked the beginning of the design for widening of Washington Street from three to five lanes. He wanted to make citizens aware that it was the beginning of a project that would ultimately stretch from Garnett Road to Aspen Avenue. It was a project that he had championed for a decade and it would take years until they would see the actual work to complete the project done, but the project was finally getting off the ground.

City Manager Michael Spurgeon informed the Council that, as part of the review for consulting services, they were going to ask the consultant to examine the possibility of incorporating a roundabout into the area, as an alternative to move traffic along. It was a new concept for Broken Arrow and would be something that, should they wish to go forward, would be brought to the Council for their review.

- A. 16-632 Acceptance of minutes of Planning Commission meetings held March 10, 2016, March 24, 2016, April 14, 2016 and April 28, 2016
- B. 16-688 Approval of the Payroll and Benefit Calendar for Fiscal Year 2016-17
- C. 16-690 Approval and authorization to execute a subsequent Policy Period Offer with Optum to provide specific and aggregate re-insurance coverage for the employee health plan for fiscal year 2016-17
- D. 16-662 Approval and authorization to place temporary directional signs at designated Rights-of-Way for the 2016 Parade of Homes no earlier than June 15, 2016 and removal no later than June 28, 2016; Signs may not be placed in site triangles nor obstruct vehicular or pedestrian traffic flow
- E. 16-650 Approval of Memorandum of Understanding between the Oklahoma Council on Law Enforcement Education and Training (CLEET) and the City of Broken Arrow to allow CLEET to use the police firing range and academy building in support of CLEET's basic state police academy
- F. 16-664 Approval and authorization to execute an Agreement for Professional Consultant Services with Garver, LLC, for Design of Washington Street Improvements from Garnett Road to Olive Avenue (Project Number ST1616)

- G. 16-683 Consideration, discussion, possible approval and authorization to execute a Professional Services Agreement between the City of Broken Arrow and Kivell, Rayment & Francis, Attorneys at Law
- H. 16-658 Approval and authorization to execute the City of Broken Arrow Golf Course Professional Management Services Agreement with Greenway Golf Associates, Inc. on city owned land known as the Battle Creek Golf Course
- I. 16-675 Approval and authorization to execute the Transaction Confirmation Renewal (first contract renewal) with Tiger Inc. for third party natural gas supply
- J. 16-689 Approval to waive formal competitive bidding, and approval to purchase four CISCO Network Switches from Chickasaw Telecom for replacement of ageing network infrastructure, to include one year of Smartnet maintenance on each switch, pursuant to the State contract
- K. 16-648 Approval of bids received, and awarding of the most advantageous bid to Jack Clancy Associates for the Police Department promotional testing process
- L. 16-696 Approval and authorization to execute a construction contract with Ellsworth Construction, LLC, for Aspen Avenue, Washington to Kenosha Street Improvements (ST1203)
- M. 16-674 Approval of quotes received, awarding of the lowest responsible quote to Acura Neon, Inc., and approval and authorization to execute a purchase order for the Central Park Community Center Marquee Sign (Project No. 166010)
- N. 16-701 Consideration, discussion, possible approval and authorization to execute Resolution No. 929, a Joint Resolution of the City Council of the City of Broken Arrow and the Broken Arrow Municipal Authority approving and authorizing a Water Conservation Program; authorizing the City Manager to monitor the water system and to implement appropriate water conservation measures, as conditions warrant, such as drought, water shortages, pressure and delivery problems, or any use of water that adversely affects or may adversely affect the public health, safety or welfare, all in accordance with the Water Conservation Program
- O. 16-685 Notification of Contracts, Change Orders and Work Orders with a value of less than \$25,000 on Engineering and Construction Contracts and Contract Amendments since the last City Council Meeting
- P. 16-700 Approval and authorization to execute Change Order C01 for Construction Contract 156024A, with Builder's Unlimited, Inc.; Nienhuis Park Basketball and Tennis Courts
- Q. 16-686 Approval and authorization to execute Change Order C01 for Construction Contract ST1508 with Pavement Conservation Specialists, Inc.; Village Square I, II, III Street Improvements
- R. 16-673 Approval and authorization of Final Acceptance for the public improvement for Collision Works located at 1501 East Kenosha Street
- S. 16-646 Approval and authorization of Final Acceptance for the public improvements for Kenosha Villas located at 1300 North Elder Place
- T. 16-647 Approval and authorization of Final Acceptance for the public improvements for Wellstone III subdivision located at South East corner of Kenosha and Midway
- U. 16-671 Approval of PT15-120, Conditional Final Plat, Aspen Ridge, 54 lots, 26.29 acres, A-1 to PUD 244/RS-3, one-quarter mile north of the northwest corner of Jasper Street and Aspen Avenue
- V. 16-669 Acceptance of a Deed of Dedication from Steven and Robyn Paliotta, on property located one-half mile south of Florence Street, about one-quarter to one-half mile west of Aspen Avenue, Tulsa County, State of Oklahoma, (Section 33, T18N, R14E)
- W. 16-666 Acceptance of a Utility Easement from Steven and Robyn Paliotta, on property located one-half mile south of Florence Street, about one-quarter to one-half mile west of Aspen Avenue, Tulsa County, State of Oklahoma, (Section 33, T18N, R14E)
- X. 16-693 Approval of the Broken Arrow City Council Claims List for June 20, 2016

6. Consideration of Items Removed from Consent Agenda

MOTION: A motion was made by Mike Lester, seconded by Richard Carter.

Move to approve item F

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

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

Move to table item U indefinitely

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

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

A. 16-661

Conduct a public hearing regarding the annexation of property located on 1.15 acres of land located in Lot 9, Block 2, Prairie Dale, a subdivision, in part of the E/2 of the SE/4 of Section 21, Township 18 North, Range 15 East of the Indian Base and Meridian, Wagoner County, State of Oklahoma (9904 South 241st East Avenue, Broken Arrow, OK a/k/a Kum and Go No. 837)

City Attorney Beth Anne Wilkening stated that the property was served by Rural Water District #4, in Wagoner Country. She reported that a Kum & Go was planned for the area. The applicants approached the City and requested annexation into the City. All City services, with the exception of water, would be provided by the City, including fire, police protection, and so on. She requested that they conduct a public hearing.

Mayor Thurmond called the public hearing to order asking if anyone present in the audience were interested in speaking. William A. Wise, 9812 South 241st East Avenue, stepped forward to speak, stating that his house was two houses over from the tract of land in question. He referred to a letter he received from Joyce Law Firm, citing that 60% of the residents would be asked to sign, and he stated that the matter was still unclear to him. Ms. Wilkening said that Mr. Joyce, attorney for Kum & Go, was present and could, perhaps, shed some light on the subject. Michael Joyce, Esq., of the Joyce Law Firm, 3521 South Columbia Place, Tulsa, pointed out that the letter received by Mr. Wise, and other owners of the subdivision in which he lived, was different and distinct from the annexation. The letter related to removing the lot under consideration out of the subdivision to develop it commercially. Under state statute, 60% approval of all lot owners were required to sanction that use. Subject to their approval, Lot 9 would be removed and replatted into the new Kum & Go development. Mr. Joyce also pointed out that approval by the residents was not required for annexation, but required for the replat. Mr. Joyce reassured Mr. Wise that any possible concerns that he and his neighbors had would be addressed and his firm would accommodate residents by coming to them personally, accompanied by a notary public. The developers would do their best to screen off and buffer the site from the subdivision, as well, in replacing the existing Kum & Go with a new, state-of-the-art Kum & Go across the street.

Mayor Thurmond called a third time asking if anyone wished to speak. Cindy Lindsey, 9816 South 241st East Avenue, stepped forward to speak, stating that her residence was next to the lot in question. She stated that no one had knocked on her door and come to her and that the letter made no mention of a Kum & Go, but referred vaguely to people that had purchased the property. In addition, although not state-of-the-art, the existing Kum & Go and privacy fence had not been maintained properly. Moreover, she was concerned because her bedroom faced where the new Kum & Go would be situated. Her concerns included security, traffic, and trash issues. Mayor Thurmond interjected that they were just discussing annexation and asked if she had a protest in that regard. Ms. Lindsey went on to say that when a car wreck occurred, the Broken Arrow police did not usually show up, and if they did, they claimed it was Wagoner County's jurisdiction instead. Mayor Thurmond inquired whether Ms. Lindsey was in the City or in the County. Ms. Lindsey replied that she was in Wagoner County but her address was Broken Arrow. The Mayor explained that the designation of Broken Arrow in her address was given by the post office only, and she was actually in Wagoner County. He reiterated that the applicant was asking for this lot to be annexed into the City of Broken Arrow. Ms. Lindsey said she was concerned since she did not want to pay Broken Arrow taxes. The Mayor indicated that she would not be paying because only the lot was being annexed. She asked how long it would be before more lots would be annexed and Mayor Thurmond replied that he believed the lot under consideration was the only one the applicant owned, and the only one the Council was addressing. Ms. Lindsey reported that they were already bulldozing the site. Mayor Thurmond asked if Ms. Lindsey wished to go on record as being opposed to the annexation and she answered yes, she did.

Mr. Joyce stated that he had spoken with Ms. Lindsey by phone and been upfront with her, answering her questions. She had apparently misunderstood with regard to Lots 10 and 11, which were already acquired. He affirmed that his client would be a good neighbor and that he would be more than happy to visit with her, with a Kum & Go representative

of the engineers. He underscored that they were there for annexation, not for design or zoning, which would come up later on. Mayor Thurmond closed the public hearing.

B. 16-638 Conduct a public hearing regarding the Police Department's application for the Edward Byrne Memorial Justice Assistance Grant (JAG), and authorization to submit the grant application

Mayor Thurmond stated that there was not really any planned discussion, unless there were any questions directed to Police Chief Boggs. A public hearing was necessary to make an application for the grant. Mayor Thurmond opened the public hearing, asking three times if anyone wished to discuss the item. There being no reply in the affirmative, Mayor Thurmond closed the public hearing.

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

Move to authorize submission of the grant application

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

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)

No citizens signed up to speak.

9. General Council Business

A. 16-659 Consideration, discussion and possible approval and authorization to execute Resolution No. 912, a Resolution of the Broken Arrow City Council, adopting the Fiscal Year 2016-2017 Annual Budget for the City in accordance with the provisions of the Municipal Budget Act

Director of the Department of Finance, Tom Caldwell, said he was pleased to present for the Council's consideration what was the final step before the mailing the Fiscal Year 2016-2017 Budget to the State Auditor. He recalled that the Budget had been presented at the May 17th meeting and a public hearing had been held on June 6th. There were no changes to the Budget from what had been presented and no changes in connection with the public hearing. It was requested that the Council approve Resolution No. 912 and authorize its execution.

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

Move to approve Resolution No. 912, adopting the Fiscal Year 2016-2017 Budget, and authorize its execution

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

B. 16-672 Consideration, discussion, possible approval and authorization to execute Resolution No. 927, a Resolution confirming the supplementation and publication of the City of Broken Arrow's Code of Ordinances

Ms. Wilkening reported that four times per year they received supplements to the Broken Arrow Code of Ordinances. Although probably not a requirement of State law, it was good practice to bring it before the Council to let it know that they had provided the supplements, received them from Unicode and added them to the law libraries, with the online version to follow fairly quickly. It was requested that the Council approve Resolution No. 927 and authorize its execution.

MOTION: A motion was made by Richard Carter, seconded by Scott Eudey.

Move to approve Resolution No. 927 and authorize its execution

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

C. 16-684 Consideration, discussion, possible approval and authorization to execute Resolution No. 928, a Resolution authorizing the City Attorney to enter Final Journal Entry of Judgment without Admitting Liability in matter of Rland Development Group, LLC v. City of Broken Arrow, et al., Tulsa County District Court Case No. CV-2016-00612; authorizing foreclosure and vacations of a mutual road easement, stormwater drainage easement and waterline easement on property located in the Southwest Quarter of the Southwest Quarter (SW/4 SW/4) Lot 4 of Section Thirty (30), Township Eighteen (18) North, Range Fourteen (14) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, generally located North of West Florence Street and East of South Mingo Road

Ms. Wilkening stated that the Resolution involved an action that was brought by Rland Development Group, LLC. She explained that there was a platted neighborhood in Berwick South and, as a result of redevelopment and other factors, they had requested vacation of certain easements. If memory served, those vacations had been accomplished by ordinance previously, and it was requested that the Council authorize the Legal Department to agree to the Journal Entry of Judgment to effectuate foreclosure.

MOTION: A motion was made by Mike Lester, seconded by Richard Carter.

Move to approve Resolution No. 928 and authorize its execution

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

D. 16-701

Consideration, discussion, possible approval and authorization to execute Resolution No. 929, a Joint Resolution of the City Council of the City of Broken Arrow and the Broken Arrow Municipal Authority approving and authorizing a Water Conservation Program; authorizing the City Manager to monitor the water system and to implement appropriate water conservation measures, as conditions warrant, such as drought, water shortages, pressure and delivery problems, or any use of water that adversely affects or may adversely affect the public health, safety or welfare, all in accordance with the Water Conservation Program

Director of Utilities Anthony Daniel said that Resolution No. 929 tied in with his presentation at the June 6th meeting, recommending its approval.

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

Move to approve Resolution No. 929 and authorize its execution

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

10. Preview Ordinances

A. 16-660

Consideration, discussion and possible preview of an Ordinance for the voluntary annexation of property for the development of a Kum and Go No. 837 on 1.15 Acres of land located at 9904 South 241st East Avenue, Broken Arrow, OK more particularly described as Lot 9, Block 2, Prairie Dale, a subdivision, in part of the E/2 of the SE/4 of Section 21, Township 18 North, Range 15 East of the Indian Base and Meridian, Wagoner County, State of Oklahoma, repealing all ordinances to the contrary, adopting a service plan, and declaring an emergency

Ms. Wilkening said the Ordinance represented the formal mechanism by which the City Council would annex the property into the City limits. It had been announced in a legal notice in the newspaper and in a letter mailed to surrounding landowners. They were informed that the Ordinance would be previewed that evening. It marked the first step in the ordinance approval process, which would be submitted for final adoption at the next meeting.

MOTION: A motion was made by Mike Lester, seconded by Richard Carter.

Move to preview the Ordinance and set it for adoption at the next meeting

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

11. Ordinances

A. 16-657

Consideration, discussion and possible adoption of Ordinance No. 3435, an Ordinance of the City Council of the City of Broken Arrow increasing the Franchise Fee paid by Oklahoma Natural Gas Company (ONG) from 4% to 4.25% of the gross receipts received from the distribution of natural gas pursuant to Ordinance No. 2383, approved by voters at an election held on October 9, 2001, and granting a 25-year non-exclusive franchise to ONG; repealing all ordinances or parts of ordinances to the contrary, and declaring an emergency

Ms. Wilkening stated that the Ordinance increased the Oklahoma Natural Gas Company (ONG) franchise fee from 4% to 4.25%. Ms. Wilkening recalled that the Ordinance was previewed at the last City Council meeting, and under the Most Favored Nations Clause of their franchise with ONG, anytime a neighboring community entered into a franchise whereby the fee was increased, then ONG had to afford that opportunity to surrounding jurisdictions. Adoption of the Ordinance would have a positive impact on the Fiscal Year 2016 Budget by approximately \$63,000. By way of reminder, Ms. Wilkening added that one of the reasons the City collected a Franchise Fee was that it was sort of like rent, allowing utility companies to utilize the City's rights-of-way and utility easements so that it could serve Broken Arrow's citizens. With the trend moving away from individual donation and dedication of easements and rights-of-way to the City, the fee helped offset some of the cost of acquisition and maintenance.

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

Move to adopt Ordinance No. 3435

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

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

Move to approve the emergency clause for Ordinance No. 3435

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, 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 thanked all departmental directors and their staff members for their contribution to the preparation of the FY-2017 Budget. A lot of work went into the \$189 million Budget for operations and capital and he wished to publically acknowledge the hard work of the entire Finance Department staff, along with the input of the directors. Formulation of the Budget prompted a lot of interaction and philosophical discussion on how the City spent its money. Mr. Spurgeon was happy with the results of his first Budget preparation. Regarding the forecast, obviously they had to live within their means. He was gratified that the City had Directors that understood what was expected of them in relation to managing their own spending plans.

Mr. Spurgeon stated that he believed that demolition of the downtown edifice, that was formerly an Assemblies of God Church, was set to begin later that week. He was excited that they would be able to raze the building and remove the unfortunate blight existing there. He thanked Engineering/Construction for keeping the project moving forward.

Mr. Spurgeon noted that a lot of time and effort went into creation of the Water Conservation Plan. He had made it clear that he wanted different stages included in order to facilitate close monitoring of the City’s water. He informed the Council that in the last five days, the City had used just under 20 million gallons of water per day. The water quality was very good and they hadn’t had to make use of the Tulsa connections. No doubt there would come a time when they would, but he felt confident about the City’s present status. It took time to understand exactly how the plant should be operated and the additional modules authorized by the Broken Arrow Municipal Authority (BAMA) were proving helpful. Monitoring continued every single day and he would be discussing the Conservation Plan wherever he went during the summer, talking about the three stages should they have to implement a portion of the Plan. He commended the good efforts so far in managing the plant, maintaining that providing close to 20 million gallons was pretty impressive. He thanked Anthony Daniel and his team at the Utilities Department.

Mr. Spurgeon wished to point out that in serving as interim Director of Engineering/Construction, Jeff Bigby had done a yeoman’s job, especially during the week-long absence of Assistant City Manager of Operations Ken Schwab. He acknowledged the efforts of all the staff of Engineering/Construction, as well. The process of reviewing applications for the position of Director would begin the following week, with a new Director in place hopefully, by late July/early August.

Mr. Spurgeon reported that they received notice from the State Attorney General’s Office that the Police Department’s application for a grant under the Safe Streets Program, was accepted in amount of \$42,000. The funds would help target areas in the community where crime existed by putting additional officers in place. He thanked the Police Department for their efforts in applying for the grant and affirmed that the City would continue applying for grants whenever the opportunity arose.

Mr. Spurgeon was pleased to announce his promotion of Russell Gale to the position of Assistant City Manager for Administration. A native of Broken Arrow who had served the City for over 35 years, including as Acting City Manager on a few occasions, Mr. Gale was a talented, “straight shooter,” who would be excellent in his new capacity.

14. Executive Session

There was no Executive Session. No action was required or taken.

15. Adjournment

The meeting adjourned at approximately 7:01 p.m.

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

Move to adjourn

The motion carried by the following vote:

Aye: 5 -

Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

Attest:

Mayor

City Clerk