



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 Johnnie Parks
Council Member Debra Wimpee
Council Member Christi Gillespie

Tuesday, December 17, 2019

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

Pastor Richard Manganaro performed the invocation.

3. Roll Call

Present: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

4. Pledge of Allegiance to the Flag

Council Member Johnnie Parks led the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

Mayor Thurmond noted Item S was to be removed from the Consent Agenda. He stated Item S was a typo and had been approved previously; therefore, Item S was not to be tabled and discussed, only removed. He asked if there were any other items to be removed from the Consent Agenda. There were none.

MOTION: A motion was made by Scott Eudey, seconded by Debra Wimpee.

Move to approve the Consent Agenda absent Item S

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

- A. 19-24 Approval of the City Council Meeting Minutes of December 3, 2019**
- B. 19-1497 Acceptance of Elm Place and New Orleans Advisory Committee Meeting minutes of October 29, 2019**
- C. 19-1515 Accept the interest arbitration award for a labor agreement with the International Association of Firefighters Local #2551**
- D. 19-1489 Approval of and authorization to declare Jireh, a police canine, as surplus property and retiring said canine to his handler effective December 17, 2019**
- E. 19-1438 Consideration, discussion and possible action to authorize the expenditure of 2018 General Obligation Bond, Proposition 6, funds for the construction of certain drainage improvements to an existing storm sewer system running across, through and upon the residential property located at 8105 South Beech Avenue in the amount not to exceed \$95,000**
- F. 19-1439 Consideration, discussion and possible action to authorize the expenditure of General Obligation (GO) Bond, Proposition 6, funds for the design of drainage improvements to a segment of Turtle Creek located in the Central Park Estates Third subdivision in amount not to exceed \$30,000**
- G. 19-1440 Consideration, discussion and possible action to authorize the expenditure of 2018 General Obligation (GO) Bond, Proposition 6, funds for the design of drainage improvements to an unnamed tributary to Aspen Creek that runs south of Jasper Street across the Indian Springs Country Club and along the Indian Springs Estates Addition in an amount not to exceed \$34,000.**
- H. 19-1496 Ratification of the second amendment of the Pharmacy Benefit Management Services Agreement with Navitus Health Solutions, LLC to continue to provide pharmacy benefit manager services for the employee health plan**
- I. 19-1484 Approval of and authorization to execute an annual Parks and Recreation Use Agreement between the City of Broken Arrow and the Broken Arrow Youth Baseball Association, Incorporated**
- J. 19-1485 Approval of and authorization to execute an annual Parks and Recreation Use Agreement between the City of Broken Arrow and the Broken Arrow Youth Football Association, Incorporated in conjunction with the Broken Arrow Lacrosse Club**
- K. 19-1492 Approval of and authorization to execute the purchase of CyberRisk insurance coverage with Travelers Casualty and Surety Company of America**
- L. 19-1493 Approval of and authorization to execute Change Order CO3 with Ellsworth Construction, LLC for Construction Contract ST1210; 9th Street Widening, Elgin to El**

- Paso
- M. 19-1472 Approval of BAZ-2039 (Rezoning), Callaway Parking Lot II, 0.16 acres, DROD Area 5 (Downtown Residential Overlay)/R-3 (Single-Family Residential) to DROD Area 5 (Downtown Residential Overlay)/ON (Office Neighborhood), east of the northeast corner of Detroit Street and First Street
 - N. 19-1452 Approval of BAZ-2040 (Rezoning), Byrne Property, 0.47 acres, R-1 to RS-1, one-quarter mile west of 9th Street (Lynn Lane), one-quarter mile north of Kenosha Street (71st Street)
 - O. 19-1491 Approval of PT19-106, Conditional Final Plat, Fire Station No. 3, 1 lot, 3.03 acres, 1 Lot, A-1 to PUD-286/CG, one-half mile south of Florence Street (111th Street), west of 23rd Street (193rd E. Avenue/County Line Road), north of the Creek Turnpike
 - P. 19-1494 Acceptance of two (2) Temporary Construction Easements consisting of 0.06 acres from Woodcreek Owners Association, Inc., on property located in the 3300 West Washington Street, Broken Arrow, Oklahoma, located in part of the Southwest Quarter of Section 16, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma for the Washington Street Improvements, Olive to Aspen, Parcel 1A and 1B (Project No. ST1616A)
 - Q. 19-1519 Ratification of the execution of the underground right of way easement granted to Public Service Company of Oklahoma (PSO) for the Stoney Creek Parking Lot
 - R. 19-1520 Ratification of the execution of the underground right of way easement granted to Public Service Company of Oklahoma (PSO) for the Farmer's Market Overflow Parking Lot
 - S. 19-1444 Acceptance of a Utility Easement from the William B. Johnson and Elizabeth A. Conrad, Successor Co-Trustees of the Bonnie Jean Johnson Revocable Living Trust dated October 12, 1993, on property approximately one-quarter mile south of Florence Street on Garnett Road, located in the Northwest Quarter of the Northwest Quarter, Section 32, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma. Parcel 2.A Haikey Creek Lift Station Waterline Upgrades
 - T. 19-1488 Acceptance of a Utility Easement from Armory, LLC on unplatted property located approximately one-quarter mile south of Kenosha Street (71st Street), one-quarter mile east of 37th Street (209th East Avenue), shown as Exhibit A (Section 8, T18N, R15E)
 - U. 18-1477 Ratification of the Claims List Check Register dated December 10, 2019

6. Consideration of Items Removed from Consent Agenda

There were no Items removed from the Consent Agenda; no action was required or taken.

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

A. 19 1431 Recognition of retiring Broken Arrow Police Department Reserve Officers Phil Yager and Chris Wyre

Police Chief Brandon Berryhill reported Reserve Officers Phil Yager and Chris Wyre were retiring after many years of service. He stated Reserve Officers were not paid; Reserve Officers volunteered time and service. He read through Reserve Officer Phil Yager's career bio and Reserve Officer Chris Wyre's career bio. He reported Reserve Commander Yager served for 32 years and retired at the end of October 2019; Reserve Officer Chris Wyre served for 20 years and would retire in January 2020. He stated the Broken Arrow Police Department thanked Phil Yager and Chris Wyre for their service to the community. Mayor Thurmond presented Certificates of Appreciation to Reserve Officer Yager and Reserve Officer Wyre.

Chief Berryhill introduced and congratulated the new Reserve Commander Ed Evans. He reviewed Reserve Commander Evans' career bio and gave a brief history of his family life.

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 before the City Council.

9. General Council Business

A. 19-1498 Consideration, discussion, and possible approval of Resolution No. 1289, a Resolution of Necessity to file a Small Claims action against Deep LLC-Luxury Inn & Suites located at 1401 N. Elm Pl Broken Arrow OK 74012 for failure to report and or pay Hotel Occupancy Tax owing for the period of April 2019 to August 2019

Finance Director Cindy Arnold reported there were a couple of hotels which were not paying the required hotel/motel tax. She stated according to Broken Arrow Code Section 22-112 there was levied an excise tax of four percent (4%) which was due before or on the 20th of each month. She stated the first hotel which was deficient was Deep LLC – Luxury Inn & Suites which owed taxes from April 2019 to August 2019. She stated Staff recommended approval of Resolution No. 1289 which enabled the City to take Deep LLC to small claims court.

Vice Mayor Scott Eudey asked if this was the same company which had fallen behind in tax payments previously. Ms. Arnold responded in the affirmative. Ms. Arnold noted Deep LLC had paid taxes for September 2019 but was refusing to pay for these four months of taxes or

even bring the City the tax report. She noted the taxes were estimated at approximately \$2,100 dollars.

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

Move to approve Resolution No. 1289 and authorize its execution

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

B. 19-1499 Consideration, discussion, and possible approval of Resolution No. 1290, a Resolution of Necessity to file a Small Claims action against Sahil, LLC DBA as Broken Arrow Inn located at 835 N. 1st Street Broken Arrow OK 74012 for failure to report and or pay Hotel Occupancy Tax owing for the period of August 15, 2019 to October 15, 2019

Ms. Arnold reported this was another repeat offender: LLC Broken Arrow Inn which had not paid from August 15 until current. She noted attempts were made to collect this debt with no response. She asked City Council to approve Resolution No. 1290 which enabled the City to take Sahil, LLC to small claims court for approximately \$1,000 dollars.

MOTION: A motion was made by Scott Eudey, seconded by Christi Gillespie.

Move to approve Resolution No. 1290 and authorize its execution

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

C. 19-1507 Consideration, discussion, and possible award of lowest responsible bid to 357 Inc. dba Reco Enterprises, and approval of and authorization to execute a construction contract for Fire Station No. 3 (Project No. 163511)

Interim Director Mike Kyser reported seven bids were received for this project, two were non-responsive. He stated Voy Construction was the apparent low bidder, however, the bid was deemed non-responsive due to a failure to execute the Affidavit of Non-Payment for Procurement of Contract and the Certification Regarding Debarment, Suspension, and Other Responsibility Matters; therefore, the lowest responsible bid was 357 Inc doing business as (dba) Reco Enterprises in the amount of \$3,790,967.00 dollars. He stated this was below the Architect's Estimate for the project. He stated Staff recommended City Council approve and authorize a contract with 357 Inc. dba Reco Enterprises for Fire Station No. 3.

Mayor Thurmond asked if the City had ever worked with Reco Enterprises. Mr. Kyser responded in the negative. Mr. Kenny Schwab concurred; he noted Staff reviewed Reco Enterprises' past construction projects and it was noted Reco Enterprises had experience with buildings of this size.

MOTION: A motion was made by Scott Eudey, seconded by Christi Gillespie.

Move to award the lowest responsible bid to 357 Inc. dba Reco Enterprises, and approval of and authorization to execute a construction contract for Fire Station No. 3 (Project No. 163511)

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

10. Preview Ordinances

A. 19-1483 Consideration, discussion, and possible preview of an ordinance amending the Zoning Code of the City of Broken Arrow Chapter 5-Development Standards; Section 5.9-Telecommunication Facilities; repealing all ordinances to the contrary; and declaring an emergency

City Attorney Trevor Dennis reported in 2017 City Council adopted a change to Zoning in anticipation of 5G data; since that time, in November 2019, the State of Oklahoma passed a Statute which regulated 5G. He explained in order to be compliant and consistent with State Law, Broken Arrow was required to make minor amendments to its Zoning Code. He discussed the amendments. He stated Staff recommended City Council preview the Ordinance and set it for adoption.

MOTION: A motion was made by Debra Wimpee, seconded by Christi Gillespie.

Move to preview the Ordinance and set it for adoption

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

11. Ordinances

A. 19-1486 Consideration, discussion, and possible adoption of Ordinance No. 3607, an Ordinance to be codified, creating Article XVIII, Broken Arrow Finance Audit Committee, section 2-246, created, section 2-247, appointments, section 2-248, removal of office, section 2-249, organization, section 2-250, duties, specifically establishing the Broken Arrow Finance Audit committee, repealing all ordinances to the contrary; and declaring an emergency

Finance Director Cindy Arnold reported this was an Ordinance previewed at the last meeting for the creation of the Broken Arrow Finance Audit Committee. She stated Staff

recommended adoption of Ordinance No. 3607 and approval of the emergency clause.

City Manager Spurgeon noted he planned to include selection of Committee Members with the January 7, 2020 Agenda. He stated there were individuals identified as having experience in audit and financing. He noted these names would be shared with the City Council for consideration once the Ordinance was adopted.

MOTION: A motion was made by Scott Eudey, seconded by Debra Wimpee.

Move to adopt Ordinance No. 3607

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

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

Move to approve the emergency clause

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

12. Remarks and Inquiries by Governing Body Members

Mayor Thurmond wished his fellow Councilors, Staff, and Broken Arrow Citizens a Merry Christmas and a Happy New Year.

Council Member Parks indicated he had served on the INCOG Board and noted Wednesday, January 22, 2020, would be the reception for the Elected Officials from the Tulsa area. He stated he asked Mr. Kenny Schwab to investigate the large building being constructed in the area of the previous Black Fox Nuclear Plant (which had not been built). He stated he felt this was important as water flowed from this area into the Broken Arrow water intake. He reported he received several complaints from residents regarding the trash pickup on the Monday following Thanksgiving. He noted residents complained the Sanitation Department was present for pickup at 8 a.m. when in the past trash was picked up after 2 p.m. He explained Ordinance required residents to have trash ready for pickup at 7 a.m. He asked for City Manager Spurgeon to include this information in the next newsletter. He noted trash pickup times could always vary.

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

City Manager Spurgeon reported last Thursday was the Local Government Day for the Leadership of Broken Arrow. He indicated Vice Mayor Eudey did an excellent job welcoming those present and discussing Broken Arrow government. He stated Street and Stormwater Director Rocky Henkel gave a great presentation regarding the Broken Arrow Bond Package as well as the culture he was attempting to create in the Street Department in terms of serving residents.

City Manager Spurgeon stated Pastor Richard Manganaro asked him to write a letter to Broken Arrow Ministers regarding the importance of the Broken Arrow Ministerial Alliance. He stated he agreed to write this letter and would ask the City Council Members to also sign the letter to be sent out in January 2020.

14. Executive Session

There was no Executive Session.

15. Adjournment

The meeting adjourned at approximately 6:50 p.m.

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

Move to adjourn

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

Mayor

City Clerk