



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, December 18, 2018

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

Invocation was performed by Pastor Rich Manganero.

3. Roll Call

Present: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, 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 asked if there were any items to be removed from the Consent Agenda. There were none.

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

Move to approve the Consent Agenda

The motion carried by the following vote:

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

- A. 18-1134** Approval of the City Council Meeting Minutes of December 4, 2018
- B. 18-1516** Approval of and authorization to execute the renewal with Preferred Community Choice PPO to continue to provide network services for the employee health plan
- C. 18-1480** Ratification of the appointment of Michael Spurgeon as a representative to the Indian Nations Council of Governments (INCOG) General Assembly and Councilor Johnnie Parks as alternate each for a two-year term beginning January, 2019
- D. 18-1509** Approval of and authorization for the Legal Department to prepare an ordinance for submission to the Council on February 5, 2019, and authorize the department to commence a civil action in the District Court of Tulsa County to vacate an alley for the Milestone Project located between East Elgin Street and East Detroit Street and between North Main Street and North 1st Street East
- E. 18-1505** Approval of and authorization to execute Resolution No. 1168, a Resolution confirming the supplementation and publication of the City of Broken Arrow's Code of Ordinances
- F. 18-1504** Approval of and authorization to execute Amendment No. 1 to Professional Consultant Agreement with Traffic Engineering Consultants, Inc (TEC) for traffic operational analysis pertaining to the New Traffic Signal at the Intersection of Hillside Drive and 23rd Street (193rd E Ave) (Project No TS1901)
- G. 18-1521** Approval of and authorization to execute Amendment No. 2 to Agreement for Professional Consulting Services with PDG, LLC, dba Planning Design Group for Design of Indian Springs Sports Complex Baseball and Soccer Improvements (Project No. 166028)
- H. 18-1395** Approval of and authorization to execute a Professional Services Agreement between the City of Broken Arrow and Danna Centeno, RN, d.b.a. Lockedin RN, LLC (Centeno) for providing city jail medical services
- I. 18-1405** Award the most advantageous bid to Warren Cat for the purchase of one (1) backhoe/loader for the Cemetery Division of the General Services Department
- J. 18-1510** Approval of and authorization to execute a Quit-Claim Deed from the City of Broken Arrow to REIP, LLC

- K. 18-1488** Approval of and authorization to execute Resolution No. 1171, a Resolution authorizing acceptance of a General Warranty Deed for Parcel 24, which consists of 0.0008 acres of permanent Right-of-Way for Washington Street Improvements, Garnett to Olive, in the

Southwest Quarter of Section 17, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from Martha I. Camacho, authorizing payment in the amount of \$100.00 for the Washington Street Improvements: Garnett to Olive, Parcel 24 (Project No. ST1616)

L. 18-1482 Acceptance of a Temporary Construction Easement on property located at 4851 W Washington Street in the Northwest Quarter of Section 20, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma from Glenn and Carol Anderson, authorizing payment in the amount of \$700.00 for the Washington Street Improvements, Garnett to Olive, Parcel 23A (Project No. ST1616)

M. 18-1387 Acceptance of a Storm Sewer Easement from K & S Commercial, LLC on a portion of unplatte property approximately one-quarter mile west of Elm Place, South of Tucson Street, shown as Exhibit A (Section 3, T17N, R14E) (121 Elm Subdivision)

N. 18-1515 Acceptance of a Utility Easement from K & S Commercial, LLC on a portion of unplatte property approximately one-quarter mile west of Elm Place, South of Tucson Street, shown as Exhibit A (Section 3, T17N, R14E) (121 Elm Subdivision 2nd Sewer Easement)

O. 18-1494 Acceptance of a Temporary Construction Easement from Robert and Marie Sanders, on property located at 213 W. Kenosha Street, a tract of land in part of Lots 15, Block 5, Brown's Addition in the Northwest Quarter of Section 11, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma for the Kenosha Street Improvements, Date to Main, Parcel 8.1. (Project No. ST1409)

P. 18-1496 Acceptance of a Temporary Construction Easement from Imajenus, Inc.on property located at 322 N Main Street, a tract of land in part of the W/2 of Section 11, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma for the Main Street Streetscapes, Phase V, Parcel 2a (Project No. ST1820)

Q. 18-1498 Acceptance of Temporary Construction Easements consisting of 0.08 acres and 0.16 acres from the Donald Thomas Family Trust, on property located at 12424 South 185th East Avenue located in part of the Northwest Quarter of Section 1, Township 17 North, Range 14 East, Tulsa County, State of Oklahoma, and authorization for payment in the amount of \$300.00 for the County Line Trunk Sewer Replacement, Parcel 7.1, 7.2 (Project No. S.1609)

R. 18-1503 Acceptance of a Temporary Construction Easement from Samuel and Elizabeth Cearley, the owners, on property located at 8501 S 9th Street, a tract of land in part of the Northwest Quarter of Section 12, Township 17 North, Range 14 East, Tulsa County, State of Oklahoma for the County Line Trunk Sewer Replacement, Parcel 4.A (Project No. S.1609A)

S. 18-1486 Acceptance of a Utility Easement consisting of 0.02 acres from the BA Land Partners, LLC, on property located at the northwest corner of 23rd and Albany located in part of the Southeast Quarter of Section 36, Township 19 North, Range 14 East, Tulsa County, State of Oklahoma, and authorization for payment in the amount of \$9,020.00 for the Albany Street Improvements: 9th to 23rd, Parcel 2 (Project No. ST1411)

T. 18-73 Approval of the Broken Arrow City Council Claims List for December 18, 2018

6. Consideration of Items Removed from Consent Agenda

There were no Items removed from the Consent Agenda. No action was needed or taken.

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

A. 18-1528 Presentation by Centennial Middle School's Competitive Science class on the taste and odor of Broken Arrow water

Assistant City Manager of Operations, Kenny Schwab, reported this past October he was contacted by Ms. Sheila Gilbert, the 7th and 8th grade science teacher at Centennial Middle School, who requested City Water Experts to attend her class and explain why the City of Broken Arrow's water tasted and smelled as it did. He stated on November 1st, 2018 he and Mr. Charles Vokes instructed Ms. Gilbert's class in water treatment processes and water quality. He stated Ms. Gilbert indicated her class was a competitive science class in need of a capstone project for the year and it was decided the class would utilize Broken Arrow water conditions as a project subject and present its findings to the City Council upon conclusion.

Ms. Sheila Gilbert reported this project was aimed at community improvement. She stated her class would share with City Council the research which had been conducted over the past three months and present several solutions. Ms. Gilbert's students made a presentation which included a description of different types of algae, the problems said algae caused, various side effects of consuming algae, causes of algae problems in the Broken Arrow water system, and water being safe to consume in Broken Arrow due to state of the art water treatment facilities. The students reviewed the various methods of algae treatment which included physical, chemical and biological, and recommended utilizing physical techniques such as fish (tilapia)

which consumed algae, black ping-pong balls or black Bio-Balls which would absorb sunlight and prevent excessive algae growth and were environmentally safe, effective and adaptable. Ms. Gilbert thanked City Council for its time and asked if there were any questions.

Council Member Parks asked if the students toured the Water Treatment Plant. Ms. Gilbert answered in the affirmative. Council Member Parks indicated the Broken Arrow Water Treatment Plant was a state of the art facility. Mayor Thurmond and City Council commended Ms. Gilbert and her students.

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)

Citizen Alan Crider stated he was concerned about the possible reinstitution of trash carts which would be utilized during the recycling pilot program. He stated he had attended two Ward meetings regarding the use of trash carts and the consensus was in favor of the bag system. He stated the Mayor at the time indicated there would not be a change from the trash bag system without a citizen vote. He stated he wanted to remind City Council of the commitment to have a citizen vote before a possible change to trash bins.

Citizen Mitch Reed, Purple Heart Commander, stated he discovered Council Member Parks was member of the Old Guard which was the group of Veterans who worked at Arlington National Cemetery. He stated the Purple Heart Association wished to present Council Member Parks with an award. Citizen Don Delap, Member of the Purple Heart Association asked Council Member Parks to come forward and presented Council Member Parks with the Challenge Coin, a commemorative T-shirt and a set of commemorative drinking glasses.

9. General Council Business

A. 18-1403 Consideration, discussion and possible approval and authorization to execute a Professional Services Contract with ArtsOK for the Spotlight Series, for a term of three years subject to annual appropriation

Director of the Convention and Visitor's Bureau, Lori Hill, reported since 2009 the Broken Arrow Performing Arts Center had been the cornerstone of the Rose District. She stated ArtsOK was the parent organization which oversaw the Performing Arts Center and had requested \$5,000 in grant funding per show, not to exceed \$40,000 per fiscal year for a period of three years. She explained the funds were to be used to offset the cost of performance artist fees. She stated each performance was expected to generate approximately forty room nights in Broken Arrow (on average). She stated the city and the CVB wished to support the local public art programs. She stated there were three shows left in the current series and if City Council approved the Professional Services Contract, the contract would be retroactive to November 2018.

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

Move to approve and authorize to execute a Professional Services Contract with ArtsOK for the Spotlight Series, for a term of three years subject to annual appropriation

The motion carried by the following vote:

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

B. 18-1406 Approval of and authorization to execute Change Order No.4 CO4 for Construction Contract ST1507; 37th Street: Omaha to Albany and Rural Water District #4 Waterline

Director of Engineering and Construction, Alex Mills, reported this Change Order was needed due to the construction process delay caused by Oklahoma Natural Gas (ONG) when moving a high pressure gas line. He stated over the past year the Contractor experienced an increase in labor and material costs, which was detailed in the City Council information packet. He explained it was not the fault of the Contractor or the City and he recommended approval of the Change Order.

City Manager Michael Spurgeon asked for consideration of the Change Order. He explained unit prices and costs had increased. He stated he was in contact with the Communications Director for ONG and had indicated the city believed it had been damaged and the ONG was responsible for approximately \$150,000 dollars for demobilization and additional costs. He stated if the Change Order was approved he and the Legal Department would work together to reclaim city funds.

Council Member Parks stated he approved moving forward with this project, and while he had a long working relationship with ONG, he felt there needed to be a remedy to this deficiency. He explained as a steward of the citizen's money he felt a responsibility to ensure recovery of the lost funds.

Council Member Wimpee reported this construction project was within her district and she approved of moving forward immediately. Mr. Alex Mills reported the City intended to have the road construction project completed by early summer.

Vice Mayor Eudey stated he felt it was important to understand the construction delay in this project was neither the Contractor's, nor the City's, fault. He agreed with Council Member Parks. He stated he supported the Change Order and the pursuit to reclaim lost funds.

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

Move to approve and authorize to execute Change Order No.4 CO4 for Construction Contract ST1507; 37th Street: Omaha to Albany and Rural Water District #4 Waterline
The motion carried by the following vote:

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

C. 18-1277

Consideration, discussion and possible approval of and authorization to execute Resolution No. 1167, a Resolution of the Council of the City of Broken Arrow, Oklahoma, requesting programing of Tulsa Urbanized Area Surface Transportation funds for widening Albany Street (61st Street) from three (3) to five (5) lanes (two through lanes in each direction and a continuous center turn lane) from 9th Street (177th East Avenue) to 23rd Street (193rd East Avenue), including the intersection with 23rd Street, and including drainage improvements, and a concrete sidewalk with handicap ramps as needed; repealing Resolution No. 1090, A resolution of the Council of the City of Broken Arrow, Oklahoma, requesting programing of Tulsa Urbanized Area Surface Transportation funds for widening Washington Street (91st Street South) from three (3) to five (5) lanes (2 through lanes in each direction and a continuous center turn lane) from Garnett Road to Olive Avenue (129th East Avenue), including drainage improvements, a multipurpose asphaltic concrete trail on the north side, and buried fiber optics conduit

Mr. Alex Mills reported in April 2018 the City of Broken Arrow was selected for a Surface Transportation Program (STP) Grant from Indian Nations Council of Governments (INCOG) for Washington Street from Garnett to Olive. He stated it had been discovered the extended time frame required from an environmental right-of-way stand point would be problematic for Washington Street and as a result the city contacted INCOG and requested a project substitution. He indicated INCOG approved project substitution upon approval by City Council of Resolution No. 1167. He explained INCOG would grant \$3 million dollars for other projects which would enable the Washington Project to move forward at a quicker pace as a result. He stated if approved, the time frame for the Albany Project included environmental clearance in 2019, utility relocation in 2020, and road construction would begin in 2021. He stated staff requested approval of Resolution No. 1167.

Council Member Mike Lester stated he appreciated Mr. Mills' efforts to complete the Washington Project at a quicker pace as it was a critical east-west corridor. Council Member Wimpee agreed and stated she felt it was extremely important to complete the Washington Project quickly. Vice Mayor Eudey agreed. City Manager Spurgeon thanked Rich Briere, Viplav Putta, Transportation Director at INCOG and INCOG. He stated all were very accommodating with the request to switch project funding. He thanked Mr. Kenny Schwab and Mr. Alex Mills for efforts in this regard.

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

Move to approve Resolution No. 1167 and authorize its execution

The motion carried by the following vote:

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

10. Preview Ordinances

A. 18-1514

Consideration, discussion and possible preview of an Ordinance of the City of Broken Arrow amending Chapter 10, Fire Prevention and Protection, Article IV. - Explosives, Section 10-76, discharge of class 2 explosives; blasting operations and adding Section 10-78, Blasting Operations

City Attorney Trevor Dennis reported this was an effort to update the blasting permitting process and bring it in line with the Oklahoma Department of Mines. He explained the City wanted to be certain of proper radius divisions between blasting properties and compliance with state requirements. He stated the Ordinance set \$44 dollars per day for permits, and required a development site plan and proposed blast schedule. He stated staff recommended setting the Preview Ordinance for adoption.

MOTION: A motion was made by Johnnie Parks, 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

There were no Ordinances.

12. Remarks and Inquiries by Governing Body Members

Mayor Thurmond stated he felt 2018 was a great year for Broken Arrow and many great things were accomplished. He stated he felt the City had an amazing City Council and staff and he appreciated working with both all year. He wished City Council, staff and the Citizens of Broken Arrow a Merry Christmas.

Council Member Wimpee stated there was an 11-year-old girl who went missing last night who was home safe today. She thanked the citizens who volunteered, Wagoner County Leadership,

Broken Arrow Fire and Police, and the Broken Arrow School System who worked together to ensure the child was returned home safely. She stated she was happy to have City Manager Spurgeon back and she thanked City Manager Spurgeon for his work. Mayor Thurmond concurred.

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

City Manager Spurgeon thanked Russell Gale for serving as Acting City Manager during his period of absence which extended from early November to December. He thanked senior staff and the Department Directors for the work done during his absence.

City Manager Spurgeon stated Chief Berryhill indicated Detective Rihanna Russell was awarded Officer of the Year, Jail Supervisor Paul Gerner was awarded Civilian of the Year, and Randall Colbert was awarded Reserve Officer of the Year.

City Manager Spurgeon reported the Fire Department was conducting Mutual Aid Training with the City of Tulsa. He explained Broken Arrow and City of Tulsa had common interests including a geographic boundary and he felt it was beneficial to the City of Broken Arrow and the City of Tulsa to learn to work together. He thanked the Fire Chief for organizing the dual training and the Mutual Aid Agreement.

City Manager Spurgeon stated the City of Broken Arrow experienced many successes this year. He reported the City of Broken Arrow had been recognized as the 19th Safest City in the Country. He stated he felt this was a direct reflection on the excellent citizens of Broken Arrow and the Broken Arrow Police Department.

City Manager Spurgeon reported he would be bringing a couple of item before them for their consideration. The city had agreed to mid-year adjustments for Union employees, and as the city had experienced a growth in revenue, it was in a position to also provide a mid-year adjustment to the non-union employees. He asked City Council to consider a small adjustment for non-union employees in recognition of work efforts. Secondly, the Employee Advisory Committee requested the addition of President's Day to the Holiday Schedule and he would be asking City Council for its consideration in this matter.

City Manager Spurgeon thanked Chairman of the Chamber Board Mike Cooper, and other Chamber Board Members, for being present at the City Council Meeting.

At approximately 6:43 p.m. Mayor Thurmond stated he would entertain a motion for a brief recess to enter into Broken Arrow Municipal Authority and Broken Arrow Economic Development Authority.

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

Move for a 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 7:21 p.m. Mayor Thurmond reconvened the regular session of the City Council Meeting. He stated there was an Executive Session and he would entertain a motion for a brief recess to clear the room for the Executive Session.

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

Move for a brief recess to clear the room for the Executive Session

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 Mike Lester, seconded by Scott Eudey.

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. Barry Pickup v. City of Broken Arrow, Workers' Compensation Court Case Number CM2015-05156R, to include offers of settlement and taking appropriate action in open session, including authority to settle this matter, under 25 O.S. §307(B)(4).

2. Kevin Smith v. City of Broken Arrow, Workers' Compensation Court Case Number CM2013-10642H, to include offers of settlement and taking appropriate action in open session, including authority to settle this

matter, under 25 O.S. §307(B)(4).

3. Litigation, including potential resolution, of a matter involving the litigation case of Brown & Perkins, LLC vs. City of Broken Arrow et al., Tulsa County District Court Case Number CV-2018-01338, 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 claim, litigation and possible litigation and that disclosure will seriously impair the ability of the public body to process the claim or conduct a pending investigation, litigation or proceeding 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 7:45 p.m. the regular session of the City Council Meeting was reconvened.

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

Move to authorize the City's outside Legal Counsel to settle the matter of Barry Pickup vs the City of Broken Arrow consistent with the recommendation of the City's Legal Counsel

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 authorize the City's outside Legal Counsel to settle the matter of Kevin Smith vs the City of Broken Arrow consistent with the recommendation of the City's Legal Counsel

The motion carried by 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 find that Executive Session was necessary

The motion carried by the following vote:

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

At approximately 7:48 p.m. Mayor Thurmond and Vice Mayor Eudey left the Council Chambers and did not return.

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

Move to enter into Executive Session

The motion carried by the following vote:

Aye: 3 - Debra Wimpee, Johnnie Parks, Mike Lester

At approximately 8:35 p.m. the regular session of the City Council was reconvened.

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

Move to schedule a Public Hearing for an ordinance for PUD 266 and BAZ 1986, an application to rezone 19.64 acres from A-1 (Agricultural District) to RM (Residential Multifamily District) for Tuesday, February 5, 2019 and provide 30 day notice to the Public of the Public Hearing pursuant to 11 O.S. Section 43-106

The motion carried by following vote:

Aye: 3 - Debra Wimpee, Johnnie Parks, Mike Lester,

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

Move to find that Executive Session was necessary

The motion carried by the following vote:

Aye: 3 - Debra Wimpee, Johnnie Parks, Mike Lester

15. Adjournment

The meeting adjourned at approximately 8:37 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: 3 - Debra Wimpee, Johnnie Parks, Mike Lester

Attest:

Mayor

City Clerk