



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

Tuesday, June 6, 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

Pastor Dan Haase delivered the invocation.

3. Roll Call

Present: 4 - Scott Eudey, Johnnie Parks, Mike Lester, Craig Thurmond
Absent: 1 - Richard Carter

4. Pledge of Allegiance to the Flag

Mayor Thurmond led the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

Mayor Thurmond asked if there were any items to remove from the Consent Agenda. Councilman Eudey requested that item U be removed.

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

Move to approve the Consent Agenda excluding item U

The motion carried by the following vote:

Aye: 4 - Scott Eudey, Johnnie Parks, Mike Lester, Craig Thurmond

- A. 16-581 Approval of Amended City Council Meeting Minutes of May 3, 2016
- B. 16-602 Approval of City Council Meeting Minutes of May 17, 2016
- C. 16-616 Approval of Program Year (PY) 2016 Community Development Block Grant (CDBG) Social Services Funding Recommendations and authorization to execute the related Social Services Contracts
- D. 16-617 Approval and authorization to execute Traffic Impact Analysis Final Pay Request Number 3, to Cowan Group Engineering through the Vision 2025 Sales Tax Program in association with the Stoney Creek Hotel and Conference Center
- E. 16-619 Acceptance of the Traffic Impact Analysis (TIA) Study and recommendations for a section of Albany Street from Elm Place east to Hillside Drive associated with the Stoney Creek Hotel and Conference Center and other development in the area
- F. 16-596 Approval and authorization to execute Resolution Number 923 authorizing the City Legal Department to file an action in District Court to obtain a Decree ordering the abatement of a public nuisance regarding the property located at 21245 East 45th Street South, Broken Arrow, Oklahoma 74014
- G. 16-623 Approval and authorization to execute the International City/County Management Association (ICMA) Retirement Corporation Governmental Money Purchase Plan & Trust Adoption Agreement
- H. 16-620 Ratification of a Commercial Services Agreement with Cox Communications for 100 Megabit Internet access at the Public Safety Complex
- I. 16-570 Approval and authorization to execute an Amendment to Capital Improvements Agreement by and between the Board of County Commissioners of Tulsa County, Oklahoma, and the City of Broken Arrow related to improvements in the Rose District

- J. 16-610** Approval and authorization to execute Amendment Number 1 to the Agreement for Professional Consulting Services with BKL, Inc., for Design of Broken Arrow Historical Museum Third-Floor Patio Canopy
- K. 16-628** Approval and authorization to execute Amendment Number 1 to the Agreement for Professional Consulting Services with BKL, Inc., for Design of Improvements to City Hall, for Assistance During Construction
- L. 16-622** Approval and authorization to execute a Professional Services Agreement between the City of Broken Arrow and McDonald, McCann, Metcalf, Carwile, Attorneys and Counselors at Law
- M. 16-613** Ratification of the Construction Contract with McGuire Brothers Construction, Inc., for the County Line Trunk Sewer Emergency Repair, Contract No. S.1609
- N. 16-566** Approval and authorization to execute Amended Memorandum of Lease Agreement and Amendment to Cellco Partnership d/b/a Verizon Wireless Site Use/Lease Agreement
- O. 16-575** Approval and authorization to execute Renewal Agreement Number 2 with Admiral Express to provide office supplies on a city wide basis
- P. 16-571** Approval and authorization to execute the Second Renewal of the Pest Control Service Agreement with Arrow Exterminators for monthly pest control at city facilities
- Q. 16-572** Approval and authorization to execute an Acceptance Agreement (contract renewal) with Bee Clean to supply custodial services and supplies for the Public Safety Complex
- R. 16-573** Approval and authorization to execute Contract Extension 1 to the Sales Purchase Agreement with Petroleum Traders for the purchase of gasoline and diesel fuel
- S. 16-576** Approval and authorization to execute service agreements for heating, ventilation, and air conditioning with Custom Services and electrical service with ADDCO Electric
- T. 16-595** Approval and authorization to execute a Parks and Recreation Use Agreement between the City of Broken Arrow and the Broken Arrow Community Playhouse, Inc.
- U 16-589** Approval and authorization to execute a Parks and Recreation Use Agreement between the City of Broken Arrow and the Broken Arrow Seniors, Inc.
- V. 16-609** Approval and authorization to execute an Amended Contract for Program Management Services for the City Hall Renovation with Magnum Construction, Inc.
- W. 16-625** Approval and authorization to execute Change Order C01 for Construction Contract 161708 with Magnum Construction Inc., for the Farmers Market Interactive Water Feature
- X. 16-553** Acceptance of a Drainage Easement for property located in the North 10 feet of Lots 23 and 24, Block 11, Broken Arrow-Original Town to the City of Broken Arrow, Tulsa County, Oklahoma from Mainsail Homes, LLC, an Oklahoma limited liability company (Sec 11 T18N R14E) (Project #ST0916A) (Iola Street & Cedar Avenue Improvements)
- Y. 16-577** Acceptance of a Drainage Easement regarding property located in the South 15 feet of Lots 11 and 12, Block 12, Broken Arrow-Original Town to the City of Broken Arrow, Tulsa County, Oklahoma from John Beighle and Delores Beighle, husband and wife, (Sec 11 T18N R14E) (Project #ST0916A) (Iola Street & Cedar Avenue Improvements)
- Z. 16-583** Acceptance of a General Warranty Deed regarding a tract of land that is part of Lot 1, Block 1, St. Anne's Extended, an addition to the City of Broken Arrow, Tulsa County, State of Oklahoma, according to the recorded plat thereof for the 9th Street widening from Elgin to El Paso (Project No. ST1210)
- AA. 16-584** Acceptance of a General Warranty Deed regarding a tract of land that is part of Block One (1), Mound View Addition, an addition to the City of Broken Arrow, Tulsa County, State of Oklahoma, according to the recorded plat thereof for the 9th Street widening from Elgin to El Paso (Project No. ST1210)

- BB. 16-587 **Acceptance of a Temporary Construction Easement regarding a tract of land that is part of Block One (1), Mound View Addition, an addition to the City of Broken Arrow, Tulsa County, State of Oklahoma, according to the recorded plat thereof, for 9th Street Widening from Elgin to El Paso (Project No. ST1210)**
- CC. 16-585 **Acceptance of a Utility Easement regarding a tract of land that is part of Block One (1), Mound View Addition, an addition to the City of Broken Arrow, Tulsa County, State of Oklahoma, according to the recorded plat thereof for the 9th Street widening from Elgin to El Paso (Project No. ST1210)**
- DD. 16-634 **Acceptance of a Utility Easement regarding a tract of land that is located in the East one half (E1/2) of the Northeast one quarter (NE1/4) of Section 33, Township 18 North, Range 14 East of the I.B.&M., Tulsa County, State of Oklahoma, according to the recorded plat thereof generally located near the intersection of Aspen Avenue and Florence Street for the Sanitary Sewer Improvements Aspen Creek Relief Line (Project No. S.1307)**
- EE. 16-635 **Acceptance of a Temporary Construction Easement regarding a tract of land that is located in the East one half (E1/2) of the Northeast one quarter (NE1/4) of Section 33, Township 18 North, Range 14 East of the I.B. & M., Tulsa County, State of Oklahoma, according to the recorded plat thereof generally located near the intersection of Aspen Avenue and Florence Street for the Sanitary Sewer Improvements Aspen Creek Relief Line (Project No. S.1307)**
- FF. 16-639 **Approval of the Broken Arrow City Council Claims List for June 06, 2016**

6. Consideration of Items Removed from Consent Agenda

Councilman Eudey left the room.

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

Move to approve item U

The motion carried by the following vote:

Aye: 3 - Johnnie Parks, Mike Lester, Craig Thurmond

Councilman Eudey returned to the room.

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

- A. 16-629 **Conduct the Public Hearing for the Proposed 2016-2017 Fiscal Year Budget**
Mayor Thurmond asked three times if anyone wished to speak on the Budget. No one offered to speak and he closed the public hearing.

- B. 16-537 **Presentation and discussion of a three stage Water Conservation Program for the City of Broken Arrow, Oklahoma**
Director of Utilities Anthony Daniel stated that a lot of research had gone into putting together the Three-stage Water Conservation Program, including examination of programs in other communities in Oklahoma, Kansas, and Texas, along with their own participation in a webinar on the subject in April. They were able to devise temporary, short-term measures as a means of responding to an emergency situation, particularly when the system demand exceeded water availability produced by the City's treatment plant, or what it took from the Tulsa connections. The focus of the program was to address water shortage brought about by drought, unusual demand or system failure. Mr. Daniel specified that at present, the City's Verdigris Treatment Plant produced 19 million gallons of treatment capacity. With respect to water sources, there were also two connections in place via the Tulsa Metropolitan Utility Authority connections capable of providing roughly 4 ½ million gallons. In addition, they were working on a third connection that would make available about 5 million additional gallons. The three sources could provide, on average, a total of 29 million gallons per day. He went on to say that the City's water distribution system was comprised of 600 miles of pipe network, holding about 19 million gallons, with six storage tanks holding a storage capacity of about 11 million gallons. Mr. Daniel explained that historically, water demand fluctuated, subject to considerations involving weather (wet or dry), population growth, and cost for customers. Mr. Daniel brought up a slide on water conservation measures, telling the Council that increases in water demand were primarily due to outdoor irrigation. The Utilities Department, therefore, encouraged residents to irrigate between midnight and 6 a.m. The City Manager was responsible for implementing the measures, signing a proclamation and publishing a notice. The help of the Police Department would be enlisted to enforce the measures in the event of an emergency, as well.

Stage one of the Three-stage Water Conservation Program was voluntary compliance, which would be requested of citizens in the event of a probable water shortage. It would be accompanied by a public education campaign. A weekly news release would be issued,

along with a water watch posted to the City website. City management would monitor the system pressure in conjunction with the Fire and Utilities Departments. The City itself would minimize outdoor watering, turning off spray pools, in cooperation with the Parks & Recreation Department. Night time watering only of golf courses, the Rose District and other plant-sensitive locations would be encouraged. Also encouraged would be alternate odd/even day watering according to the street numbers in an address.

If the situation deteriorated they would implement Stage Two. The decision to proceed to Stage Two Moderate Water Conservation, would be triggered by a daily demand exceeding 95% of water availability for three consecutive days. Mr. Daniel pointed out that the six water storage tanks would only be able to reach 75% capacity before 5 a.m. The City's goals in implementing Stage Two would be to reduce big demands on the water supply, while maintaining the system to meet the basic needs for life, safety, health and well-being of the community. The public would be advised through a news release updating conditions and informing them of the outlook and specific water restrictions. Furthermore, the City Manager would make a public announcement indicating restrictions through the various news media outlets. In addition to calling for voluntary conservation measures, the City would review temperature, rainfall, and tank levels, suspending operation of water fountains, water features, watering of City grounds and soaker hoses. Golf course greens would be watered only at night, as would the Rose District and other plant-sensitive sites. Again, the City would monitor system demands, but they also would enforce the odd/even watering restrictions of between 6 p.m. and 6 a.m. only. If conditions improved over a two-week period, then they could scale back to voluntary conservation or even lift conservation measures altogether.

If the conditions necessitating Stage Two persisted, they could implement Stage Three Emergency Water Conservation. Stage Three would be called for in severe water storage shortage conditions and limited water supply, as when the pressure dropped below 25 lbs. per square inch over a 24-hour period and the daily demand for two days was in excess of 100% of the water treatment plant's capacity combined with the amount they received from Tulsa. Also, if the system were unable to recover above 60% by 5 a.m., a Stage Three situation would be warranted. A Stage Three Emergency could also be triggered by equipment problems at the Treatment Plant, a break in the transmission line, or contamination of a raw water source. The goals of Stage Three were to reduce peak demands to management levels, maintain the water supply system to meet the needs for life, safety, health, well-being and fire suppression. Education of the public would entail additional instructions to those for Stage Two. The City would broadcast the emergency, which might also entail the City Council holding a public meeting to discuss emergency measures. All outdoor watering with potable water would be suspended, along with the elimination of all non-essential City water use. Watering of golf courses and other plant-sensitive areas would be restricted to greens only. Again, the City would monitor conditions and scale back restrictions, if possible.

Mr. Daniel summarized that the Program's success was dependent upon public outreach on the part of the City. It was a two-way approach, reflective of the shared responsibility of the City and residents using the water. It was the City's job to raise awareness of needs connected with individual and collective health and well-being, fire suppression and basic hygiene.

Mr. Daniel stated that monitoring of the Program started at the Water Treatment Plant. The Plant Manager monitored production, along with how much water they were able to draw from the Tulsa connection and tank storage levels at the six locations, providing the updates to the Utilities Director at three-hour intervals. As Director, Mr. Daniel coordinated and communicated with the Plant Manager and staff members who, in turn, discussed and coordinated with the Assistant City Manager of Operations. The Assistant City Manager would advise the City Manager on the next course of action. Enforcement would require the help of the Police Department.

City Manager Michael Spurgeon commented they had been perfecting management of the new Plant in the couple of years it had been in existence, adding an additional 170 modules to increase their capacity. They were getting ready to start and would complete the additional connection which would be there, if needed, in order to meet the expectations of residents and businesses. The purpose of the plan was to provide guidelines to facilitate a smooth process in the face of a water shortage. It was important to monitor, as Mr. Daniel had described, and report to the Council if an issue arose. He was confident that the three-stage approach would help the City manage its water should the weather get extremely hot, as it tended to do in Oklahoma in the summer.

Councilman Eudey asked if they were continuing to look at the possibility of reconnecting with the Oklahoma Ordnance Works Authority (OOWA) water line in the future. Mr. Spurgeon replied that they had HDR Inc. (Henningson, Durham & Richardson) under contract to examine their long term options. As part of the Capital Improvement Plan that he outlined in his FY-2017 Budget proposal presentation, under Capital items for the

Utilities Department there was an estimate of what would be needed to make the improvements, if the Council agreed to do so sometime in the future.

**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)**

Richard Pisaturo, 2068 South Gardenia Place, stated that they had just started putting in a new sidewalk on Aspen Avenue, between 91st and 101st Streets and he was told by a City employee that it was part of a federal government mandate. Mayor Thurmond observed that there was an ordinance that when a property was purchased and developed, the owner had to put in sidewalks, and he went on to say that if it had been left out, some had been done through bond issues. Assistant City Manager of Operations Kenny Schwab interjected that it was a part of their Americans with Disabilities Act (ADA) Transition Plan, and not necessarily a government mandate. He added that the Plan allowed for connectivity and when they connected sidewalks along arterials, they were making them ADA compliant. Mr. Pisaturo elaborated that the west side of Aspen Avenue, between 91st and 101st Streets had sidewalks. They had installed one sidewalk that stopped in the middle of nowhere, and if he tried to walk to Reasor's Foods from his house proceeding up to 101st Street, there was no sidewalk anywhere. If you went down 91st Street between Aspen Avenue and Elm Place, there was no sidewalk on the south side and no sidewalk from the Happy House Chinese Restaurant to Spruce Avenue. He asked why the City wasn't concentrating on getting at least one side connected. Mr. Schwab said that it had been their policy that along the City's arterials, the City did not step in and create sidewalks across undeveloped property unless they needed to for an ADA circulation pathway. Typically, circulation pathways were tied to subdivisions. Mr. Schwab maintained that regarding the area in question, Mr. Pisaturo was talking more about the east side of Aspen Avenue and heading north, where basically, they were tied into the subdivision and would be going across the subdivision Stacey Lynn VII, he thought. Mr. Schwab concluded that they did not extend to the north and tie across the undeveloped property. Mr. Pisaturo clarified that from Happy House Chinese Restaurant to Spruce Avenue there was a development and no sidewalk, and on 101st Street there were developments on both sides and no sidewalks at all. Mr. Pisaturo said he had come to address the Council just to find out the reason for that and, in keeping with Broken Arrow's pedestrian-friendly goals, they should complete at least one side with sidewalks. Mr. Schwab said he would be happy to meet with him and take a look at it.

9. General Council Business

A. 16-621

Consideration, discussion and possible approval of an application to the Tulsa County Vision Authority for Vision 2025 funding for sanitary sewer system improvements from the Creek Turnpike to Tucson Avenue

Russell Gale, Human Resources Director, stated that they were requesting that the City Council authorize the staff to submit an application to the Tulsa County Vision Authority for \$803,000, seeking Proposition 2 funding for Broken Arrow's allocation of the Vision 2025 surplus. The funding would assist in the installation of sanitary sewer system improvements near Aspen Avenue and Tucson Avenue. He reported that presently there was interest in retail development in the vicinity and the system improvements were deemed essential for the project to move forward. Proposition 2 funds could be used for a limited purpose of promoting economic development and the staff was satisfied that the project met the criteria for Proposition 2 funding. Broken Arrow was allocated \$1.4 million of Proposition 2 funding and if the project were approved, there would still be \$600,000 remaining for future projects. They recommended adoption of the application, which would be submitted to the Tulsa County Vision Authority at a special meeting on or near June 15th.

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

Move to approve the submission of application for \$803,000 to Tulsa County Vision Authority and to fund sanitary sewer improvements from the Creek Turnpike to Tucson Avenue

The motion carried by the following vote:

Aye: 4 -

Scott Eudey, Johnnie Parks, Mike Lester, Craig Thurmond

Mr. Spurgeon pointed out that with respect to the remaining \$600,000, the tentative plan was to go back to the Council with the aim of utilizing the funds for the needed traffic improvements to the Bass Pro/Stoney Creek Conference Center area. If the Council should give its approval, the funds would be used up entirely. Mr. Spurgeon recalled that earlier that night a contract was awarded to help identify and create estimates for the improvements.

B. 16-608

Consideration, possible approval and authorization to execute Resolution Number 922, a Resolution authorizing the City Attorney to enter into a Final Journal Entry of Judgment without admitting liability in the matter of St. John Building Corporation, an Oklahoma Non-Profit Corporation v. the City of Broken Arrow, Oklahoma, et al., Tulsa County District Court Case Number CV-2016-00504, authorizing foreclosure

and vacations of a portion of West Albany Place and easements located at Stone Ridge Towne Center, a subdivision in the City of Broken Arrow and a partial vacation of Plat No. 6236, Stone Ridge Towne Centre, subdivision to the City of Broken Arrow

Councilman Eudey left the room.

City Attorney Beth Anne Wilkening stated that the item was a procedural issue involving a big medical complex on the property. The City had started with the plat vacation and the title attorney wasn't satisfied. She concluded that the Resolution before the Council would enable them to clear title.

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

Move to approve Resolution Number 922 and authorize its execution

The motion carried by the following vote:

Aye: 3 - Johnnie Parks, Mike Lester, Craig Thurmond

Councilman Eudey returned to the room.

C. 16-633

Consideration, possible approval and authorization to execute Resolution Number 924, a Resolution of support for the appointment of Lonnie Sims to the District 6 seat on the Board of Directors of the Oklahoma Municipal League and further declaring said appointment to be for the benefit of the City of Broken Arrow and other municipalities within the district

Mr. Gale reported that due to a recent resignation on the Board of Directors of the Oklahoma Municipal League (OML), a vacancy had been created. Mayor Thurmond had approached the staff in the previous week, suggesting Jenks City Council member Lonnie Sims be submitted as a possible nominee to fill the vacancy. In addition to his six years as a Council member, Mr. Sims had served another six years on the Planning Commission. Moreover, he had played an active leadership role in relation to the recent Vision 2025 adoption, the Arkansas River Task Force, and had served on the Board of Directors for the Indian Nations Council of Governments (INCOG). Mr. Gale stated that it was their recommendation that Resolution 924 be adopted by City Council.

Mayor Thurmond added that Mr. Gale and he had both served with Mr. Sims on a Cities United group that had discussed Vision 2025. Mr. Sims actively supported the community's working together, lending his support to all the other cities when he served on the Vision Authority. As a community-minded team player, Mr. Sims was recommended by the Mayor to fill the vacancy.

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

Move to approve Resolution Number 924 and authorize its execution

The motion carried by the following vote:

Aye: 4 - Scott Eudey, Johnnie Parks, Mike Lester, Craig Thurmond

D. 16-641

Consideration, discussion, possible approval and authorization to execute Resolution Number 925, a resolution providing for the issuance of General Obligation Refunding Bonds in the principal amount not to exceed seven million two hundred thousand dollars (\$7,200,000) by the City of Broken Arrow, Oklahoma, for the purpose of refunding a portion of the City's outstanding General Obligation Bonded Indebtedness; establishing a not to exceed true interest cost and maturity date; prescribing form of Refunding Bonds and providing for registration thereof; providing a levy of an annual tax for payment of principal and interest on said Refunding Bonds; designating an underwriter for the Refunding Bonds and authorizing execution of a Bond Purchase Contract, Escrow Fund Agreement, Continuing Disclosure Agreement, and Paying Agent/Registrar Agreement; ratifying and confirming a Legal Services Agreement and a Financial Services Agreement with respect to the issuance of such bonds and approving an Official Statement and providing other details of the issue

Ms. Wilkening stated that the bond counsel, Mr. Smith and she had discussed the item the previous Friday. Because of an ordinance referenced in the item, it was requested that it be tabled until after the Council voted on that ordinance.

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

Move to table item D until later in the meeting

The motion carried by the following vote:

Aye: 4 - Scott Eudey, Johnnie Parks, Mike Lester, Craig Thurmond

E. 16-644

Consideration, discussion, and possible approval and authorization to execute Resolution Number 926, a Resolution of the Broken Arrow City Council rescinding the contract with Oklahoma Mechanical Solutions, Inc.; Declaring an emergency due to a failure of the HVAC system in the property room of the Justice Center; Awarding the bid to the second low bidder, Vision Air Services, for the installation of a HVAC system at the Justice Center; Waiving the timing provisions of the Oklahoma Public

Competitive Bidding Act regarding award of a construction contract pertaining to competitive bidding as allowed by law; and directing the City Manager to carry out all applicable provisions

Ms. Wilkening commented that an unusual situation had presented itself and they were trying diligently to get the HVAC system in the property room resolved. She underscored the importance to the project especially in light of the fact of the current heat wave. Temporary units were installed in the property room but of great concern was the humidity level. The issue demanded quick resolution to avoid potential impact to evidence contained in the property room, in which a criminal case or property seized by the Broken Arrow Police Department could be compromised. Ms. Wilkening recalled that initially, the Council had had an opportunity to reject previous bids several months before. At that time, it became apparent that the cost of the project would be much higher than anticipated and it was recommended that the Council award the contract to the lowest bidder. The Council did so, however, apparently the company was going out of business and they inquired if they could transfer the contract to another company. In any case, they never followed through with the required statutory bonds. It was not recommended, therefore, that the Council necessarily reject bids, owing to the urgency of the situation. Ms. Wilkening and the Legal Department were asking them to waive the timeframe to award a bid, as contained in the Public Competitive Bidding Act. They had already gone through the bidding process twice and it was a very transparent action with regard to the tax-paying citizens, who would not be well-served by rejecting the bids and starting over again. Representatives from the Engineering/Construction Department had contacted the second lowest bidder, who agreed to stand by their original bid.

Councilman Parks asked if any work had been started by the company in question. Ms. Wilkening replied that Engineering/Construction would not allow them to start, pending the Council's approval. Councilman Lester asked if the bid bond would be used to offset any difference in cost and Ms. Wilkening replied yes, it would.

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

Move to approve Resolution Number 926 and authorize its execution

The motion carried by the following vote:

Aye: 4 - Scott Eudey, Johnnie Parks, Mike Lester, Craig Thurmond

F. 16-540 Consideration, discussion and possible action on the bids received for the Aspen Avenue, Washington Street to Kenosha Street Mill and Overlay, project number ST1203, including, but not limited to rejection of all bids, award of the bid, and consideration, discussion and possible approval of any related construction contracts

Ms. Wilkening commented that the item was representative of another somewhat unusual situation. She explained that she had spent a lot of time working with the Assistant City Manager of Operations and the Department of Engineering/Construction on the particular issue before them. As a general rule, barring some anomaly, staff tended to recommend that the Council go with the lowest bidder. However, that bidder, Ellsworth Construction, LLC was actually involved in litigation with the City, though the City was on the peripheral, so to speak, not being an entity they were contracting with. No City funds were utilized and she was reasonably confident that eventually the City would be removed from the lawsuit. They had taken the time to place the matter on the agenda for an Executive Session, should the Council desire to discuss it. It was the unequivocal recommendation of Mr. Schwab and the Department of Engineering/Construction, however, that the Council go with the low bidder. Ms. Wilkening advised that if the Council elected to reject all the bids and start over again, it would mean a substantial delay in prime construction season. There was no hesitation, on the part of Engineering/Construction, that they could complete the project in accordance with City standards.

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

Move to award the project to Ellsworth Construction, LLC, as the low bidder for the base bid and alternate number two, as recommended by staff

The motion carried by the following vote:

Aye: 4 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

10. Preview Ordinances

A. 16-606 Consideration, discussion and possible preview 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 to the contrary; and declaring an emergency

Ms. Wilkening recalled that one of the things the Fiscal Sustainability Committee looked at in depth was franchise fees. She explained that the purpose of a franchise fee was to allow the City of Broken Arrow to receive compensation for utilization of right-of-way in easements. It represented an important piece to the services offered by the City because

the current trend was away from individuals dedicating their own property in order for the City's use for roads and things of that nature. Cities had to have some way of recouping some of those costs. In the particular case of the item under consideration, as in most of the City's franchise agreements, the Favored Nations clause essentially provided that if another municipality was receiving a higher franchise rate, then they were supposed to notify the City Manager, and it would be brought before the Council in an ordinance. In the present case it would result in a raise from 4% to 4.25%. It was recommended that the Council preview the Ordinance and set it for adoption at the next meeting.

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

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

The motion carried by the following vote:

Aye: 4 - Scott Eudey, Johnnie Parks, Mike Lester, Craig Thurmond

11. Ordinances

A. 16-578

Consideration, discussion and possible adoption of Ordinance No. 3425, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1888, granting CH zoning classification upon the tract, generally located one-quarter mile south of the Broken Arrow Expressway, east of Elm Place, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency
Ms. Wilkening stated that next three ordinances pertained to rezoning applications. They were necessary in order to effectuate the change to the zoning code and to the maps, as well.

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

Move to adopt Ordinance No. 3425

The motion carried by the following vote:

Aye: 4 - Scott Eudey, Johnnie Parks, Mike Lester, Craig Thurmond

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

Move to approve the emergency clause for Ordinance No. 3425

The motion carried by the following vote:

Aye: 4 - Scott Eudey, Johnnie Parks, Mike Lester, Craig Thurmond

B. 16-579

Consideration, discussion and possible adoption of Ordinance No. 3426, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1895, granting CH zoning classification upon the tract along with PUD 94S, generally located one-half mile south of Omaha Street, east of Aspen Avenue on the southeast corner of Granger Street and Aspen Avenue, north of the Broken Arrow Expressway, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency

Ms. Wilkening said it was for rezoning and recommended that the Council adopt the Ordinance and approve the emergency clause.

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

Move to adopt Ordinance No. 3426

The motion carried by the following vote:

Aye: 4 - Scott Eudey, Johnnie Parks, Mike Lester, Craig Thurmond

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

Move to approve the emergency clause for Ordinance No. 3426

The motion carried by the following vote:

Aye: 4 - Scott Eudey, Johnnie Parks, Mike Lester, Craig Thurmond

C. 16-580

Consideration, discussion and possible adoption of Ordinance No. 3427, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1899, granting RM zoning classification upon the tract along with PUD 177C, generally located south of Omaha Street, west of Aspen Avenue, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency

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

Move to adopt Ordinance No. 3427

The motion carried by the following vote:

Aye: 4 - Scott Eudey, Johnnie Parks, Mike Lester, Craig Thurmond

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

Move to approve the emergency clause for Ordinance No. 3427

The motion carried by the following vote:

Aye: 4 - Scott Eudey, Johnnie Parks, Mike Lester; Craig Thurmond

- D. 16-600** **Consideration, discussion and possible adoption of Ordinance No. 3434, an Ordinance amending the Broken Arrow Code, Chapter 4, Alcoholic Beverages, Article V, Low-Point Beverages, Section 4-96. - Suspensions and revocation of license, specifically allowing the City Manager to suspend or revoke a low-point beer license and allowing licensees subject to suspension or revocation to appeal the City Manager’s decision to the City Council; repealing all ordinances to the contrary; and declaring an emergency**
Ms. Wilkening stated that the Ordinance was previewed at the last meeting and allowed the party to appeal denial to the City Manager.
- MOTION: A motion was made by Mike Lester, seconded by Johnnie Parks.
Move to adopt Ordinance No. 3434
The motion carried by the following vote:
Aye: 4 - Scott Eudey, Johnnie Parks, Mike Lester, Craig Thurmond
- MOTION: A motion was made by Johnnie Parks, seconded by Mike Lester.
Move to approve the emergency clause for Ordinance No. 3434
The motion carried by the following vote:
Aye: 4 - Scott Eudey, Johnnie Parks, Mike Lester, Craig Thurmond
- E. 16-594** **Consideration, discussion and possible adoption of Ordinance Number 3436, an ordinance amending Section 3.1 (Table 3.1-1), Section 3.2.C, and Section 10.3.D.4 of the City of Broken Arrow Zoning Ordinance (2931) to accommodate Micro Food and Beverage Production; repealing all ordinances or parts of ordinances in conflict herewith; and declaring an emergency**
Ms. Wilkening stated that the Ordinance allowed micro food and beverage production.
- MOTION: A motion was made by Mike Lester, seconded by Johnnie Parks.
Move to adopt Ordinance No. 3436
The motion carried by the following vote:
Aye: 4 - Scott Eudey, Johnnie Parks, Mike Lester, Craig Thurmond
- MOTION: A motion was made by Johnnie Parks, seconded by Mike Lester.
Move to approve the emergency clause for Ordinance No. 3436
The motion carried by the following vote:
Aye: 4 - Scott Eudey, Johnnie Parks, Mike Lester, Craig Thurmond
- F. 16-642** **Consideration, discussion and possible adoption of Ordinance Number 3437, an ordinance providing for the amendment of Ordinance Number 2645, an ordinance which provided for the issuance of \$10,070,000 principal amount of City of Broken Arrow, Oklahoma General Obligation Bonds, Series 2004; said amendment specifically providing for optional redemption prior to maturity; and declaring an emergency**
Ms. Wilkening reported that the Bond Counsel, the Finance Department, and she had had an opportunity to discuss an anomaly in the issuance documents and the adopting Ordinance in connection with refunding. The documents provided to the bidders indicated that refunding was an option. However, the Ordinance itself placed certain restriction on that. It was decided that the Ordinance should be amended, allowing for refunding within the timeframe originally contemplated. It was recommended that the Council adopt Ordinance Number 3437 and approve the emergency clause.
- MOTION: A motion was made by Johnnie Parks, seconded by Scott Eudey.
Move to adopt Ordinance No. 3437
The motion carried by the following vote:
Aye: 4 - Scott Eudey, Johnnie Parks, Mike Lester, Craig Thurmond
- MOTION: A motion was made by Scott Eudey, seconded by Mike Lester.
Move to approve the emergency clause for Ordinance No. 3437
The motion carried by the following vote:
Aye: 4 - Scott Eudey, Johnnie Parks, Mike Lester, Craig Thurmond
- D. 16-600** **Consideration, discussion and possible adoption of Ordinance No. 3434, an Ordinance amending the Broken Arrow Code, Chapter 4, Alcoholic Beverages, Article V, Low-Point Beverages, Section 4-96. - Suspensions and revocation of license, specifically allowing the City Manager to suspend or revoke a low-point beer license and allowing licensees subject to suspension or revocation to appeal the City Manager’s decision to the City Council; repealing all ordinances to the contrary; and declaring an emergency**
- Item D being taken from the table, Mr. Rick Smith of Municipal Finance Services, Inc. in Edmond, addressed the Council. He pointed out Anissa Campbell from his office and Don Kiser, Esq., Bond Counsel. Mr. Smith spoke on opportunities to refinance or refund

Obligations that were issued. Historically low interest rates enabled them to bring to the Council three issues: 2004, 2005, and 2006 General Obligations Bonds. He informed them that the Bonds themselves, were subject to optional redemption at the Council's pleasure, if it were economical. As cited in the packets he had handed out, the interest rates on the Bonds were anywhere from 4% to 4 ½%, and the current market they were looking at the probability of minimizing the interest rate to perhaps as little as 1.3%. By virtue of that, there would be a debt service savings, constituting real reductions in debt payments, translating to lower taxes in the neighborhood of \$700,000. That would allow the City to come back and issue other debt and not have the kind of tax impact that they might otherwise have without the refunding. In Oklahoma, General Obligation Bonds did not have to be sold at a competitive sale, but could be handled through a request for proposal process for underwriters, which they had done, in working with City staff over the past few weeks. The packet contained information on the proposals they received. They sent out eleven proposals to underwriters and local banks and received five proposals back. An evaluation of the proposals indicated BOSC, Inc., a subsidiary of the Bank of Oklahoma, offering the lowest rate and greatest opportunity for savings. The Resolution before the Council established parameters for the transaction in terms of not-to-exceed dollar amounts, not-to-exceed interest rates. Based upon the Council's approval, Municipal Finance Services would work with the underwriter and get the Bonds in the market, as they need to do as soon as possible. They were prepared to work with Mr. Kiser, the staff and others to get the Bonds sold and in the market later in the week in order to capture where the rates were. A public hearing was required for those types of bonds, in Oklahoma. They published notice and the public hearing took place on Thursday, June 2nd at City Hall in the Council Chambers, with Mr. Cook representing the City. The amendment the Council had just approved on the old Ordinance was to correct a scrivener's error regarding the redemption provisions.

Mr. Spurgeon commented that he recommended approval.

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

Move to approve Resolution 925 and authorize its execution

The motion carried by the following vote:

Aye: 4 - Scott Eudey, Johnnie Parks, Mike Lester, Craig Thurmond

12. Remarks and Inquiries by Governing Body Members

Mayor Thurmond apologized that he had missed the previous City Council meeting, however, he had an opportunity to go to Washington, D. C. and was pleased to represent the City of Broken Arrow. He participated in a Capitol Hill briefing in which three questions were directed to him about Broken Arrow, from a total of five questions asked of four panelists. Representatives of a national publication asked some questions, as well, expressing the desire to do a follow-up story about Broken Arrow. All in all, the City had very good exposure and he also made use of the opportunity to meet with various legislators to talk about infrastructure and what Broken Arrow was doing. The Mayor stated that he was very happy with the reception that they got and the excitement they generated in people who felt that Broken Arrow was a great example of how things should be done in government.

Councilman Lester announced that White River Fish Market was opening a location in Broken Arrow in early fall, at 71st Street and Lynn Lane. He felt that it would be a great opportunity for a new restaurant for Broken Arrow. Mr. Spurgeon congratulated Councilman Lester, who said it was the culmination of a five-year effort in which Economic Development Coordinator Norman Stephens played an important role.

Mayor Thurmond said it was really great to bring the opportunity of a seafood market and restaurant to the City, along with the sales tax it would generate. Councilman Lester pointed out that in Tulsa they served between 600 and 700 people a day, to get an idea of what they would do for Broken Arrow.

Mayor Thurmond congratulated City Manager Michael Spurgeon on his marriage.

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

Mr. Spurgeon thanked Russell Gale for serving as Acting City Manager while he was away on his honeymoon. He thanked the Directors for their leadership in managing their Departments so well in his absence, also.

Mr. Spurgeon thanked Rick Smith and his team, whom he had met with a few weeks prior, to look at City projects and financing needs for the coming fiscal year. The \$700,000 they would be saving the City was a significant amount. It would afford the City additional capacity to be able to meet the Council's objectives in terms of where they wanted to keep the tax rate for the three final they needed to close out the 2014 Bond. They were looking at issuing about \$18,000 worth of Debt in the fall, for their consideration.

The public hearing on the FY-2017 Budget had taken place that evening. He gave the Mayor a copy of the Budget presentation he gave while the Mayor was away in Washington. He thanked Mayor Thurmond for going to Washington and bringing Broken Arrow into the national spotlight for the great, innovative things it was doing, of which it could be proud.

Mr. Spurgeon wished Tom Caldwell, who had been out for a few days, well, and thanked him and his team with regard to their efforts in devising the \$200 million Budget. The adoption of the Budget would take place in two weeks.

Mayor Thurmond concurred that staff did a great job while Mr. Spurgeon was away and thanked them on the presentation and getting grant applications ready with the goal of obtaining federal grant money.

14. Executive Session

Executive Session for the purpose of confidential communications between the City Council, the City Manager, and the City Attorney, and possible action in open session regarding a potential claim and litigation involving the Aspen Avenue, Washington Street to Kenosha Street Mill and Overlay Competitive Bid and Construction Contract, and taking any action as set forth in Agenda Item 9-F, under 25 O.S. §307(B)(4). In the opinion of the City Attorney, the Council is advised that disclosure will seriously impair the ability of the public body to process the potential claim and 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.

There was no Executive Session held. No action was taken.

15. Adjournment

The meeting adjourned at approximately 7:22 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: 4 - Scott Eudey, Johnnie Parks, Mike Lester, Craig Thurmond

Attest:

Mayor

City Clerk