



City of Broken Arrow

Minutes City Council Meeting

City Hall
220 S 1st Street
Broken Arrow OK
74012

Mayor Debra Wimpee
Vice Mayor Christi Gillespie
Council Member Johnnie Parks
Council Member Lisa Ford
Council Member Justin Green

Tuesday, January 16, 2024

Time 6:30 p.m.

Council Chambers

1. Call to Order

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

2. Invocation

Pastor Bob Roche performed the invocation.

3. Roll Call

Present: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

4. Pledge of Allegiance to the Flag

Council Member Lisa Ford led the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

Mayor Wimpee asked if there were any Items to be removed from the Consent Agenda; there were none.

MOTION: A motion was made by Johnnie Parks, seconded by Justin Green.

Move to approve the Consent Agenda

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

- A. 23-1561 **Acknowledgement of upcoming out-of-state travel by City Council members**
- B. 24-65 **Approval of the City Council Meeting Minutes of January 2, 2024**
- C. 23-322 **Notification of City Manager's and Assistant City Manager's execution of Professional Consultant Agreements and Amendments to an Agreement, as well as public Construction Contracts not subject to the Competitive Bid Act, with a Contract value of less than \$50,000.00 or less**
- D. 24-141 **Approval of and authorization to execute Change Order No. 3 with Sherwood Construction Co, Inc., for Oklahoma Department of Transportation project # STP-172N(455)IG, (City of Broken Arrow project # ST0914 - 23rd Street Improvements from Houston Street to Kenosha Street)**
- E. 24-139 **Notification of City Manager's execution of Change Orders on Public Construction Contracts as Authorized per Resolution 1439**
- F. 24-55 **Ratification of the Claims List Check Register Dated January 08, 2024**

6. Consideration of Items Removed from Consent Agenda

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

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

- A. 24-137 **Conduct a public hearing regarding the proposed creation of Increment District No. 5, City of Broken Arrow and the Sunset at Broken Arrow Economic Development Project Plan**

Nate Ellis with the Public Finance Law Group indicated this evening the second public hearing regarding the Amphitheater project, Tax Increment District (TIF District) No. 5 would be held. He indicated he made the full presentation at the last public hearing and asked if there were any public comments or questions.

Mayor Wimpee noted as the full presentation was available online, she would allow moving forward with public comments. She opened the public hearing and asked three times if any member of the public would like to speak regarding this Item; there were none who wished to speak. She closed the public hearing.

- B. 24-58 **Presentation and discussion of the Financial Statements of the City of Broken Arrow through November 30, 2023 for the General Fund, Broken Arrow Municipal Authority, Police Sales Tax Fund, Fire Sales Tax Fund and Visit BA**
Finance Director Cindy Arnold indicated this Item would be included in the Agenda every

month and the financial statement dates would lag by six weeks. She explained the financial statement dates presented in today's meeting were ending November 30, 2023. She stated as of November 30, 2023, Broken Arrow was 41.6 percent through the fiscal year (July 1, 2023 through June 30, 2024). She reported the financial statements included the total budget, revenue collected to date, current month's collection, and percentage of budget. She noted all revenues were coming in on schedule, license and permit revenues were high, and the interest collected on investments was high. She indicated the current total budget was \$108 million dollars, the City collected \$45.8 million dollars and the current month's collection was \$8.9 million dollars. She reported the expenditures percentage of budget was lower in many departments as expenditures were upcoming, for example maintenance services for computers would be performed in May 2024. She reported the budget net income was \$293,000 dollars; to date it was at \$2.7 million dollars, and the net income for the current month was \$291,000 dollars, so currently the City was in excellent shape.

Ms. Arnold reported BAMA was on target; its total budget was \$88.9 million dollars, revenues collected to date \$37.5 million dollars, current month's collection was \$7.2 million dollars. She reported the expenses total budget was \$131 million dollars, expended to date was \$39.4 million dollars, and the current month's expenditures were a little over \$6 million dollars. She reported the draws received were a revenue source BAMA did not budget for as it was money which was already expended and was then refunded by OWRB. She reported the draws received were \$1.8 million dollars, and BAMA requested \$2.6 million dollars for December 2023.

Ms. Arnold reported the Police Sales Tax Fund total budget collected to date was on target. She reported the Police Sales Tax Fund had excess money, which was invested, and the CDs were doing very well. She stated the Police Sales Tax Fund expended to date was \$13.6 million dollars and the current month was \$342,000 dollars in the negative. She explained this was due to the recent contract agreement, and this was the longevity payout in November.

Ms. Arnold reported the Fire Sales Tax Fund was also on target, interest was high in the invested funds. She stated revenue income year to date was \$2.5 million dollars and the current month was \$308,000 dollars. She said in January's review the month to date would be low because of the contract.

Ms. Arnold stated the hotel and motel tax collection was good at 52.2% of budget, and occupancy was high. She noted regarding the invoice process, with four accounts payable employees, 14,552 invoices had been processed, and 6,671 checks had been processed for a total of \$58 million dollars. She noted this did not include debt service as debt service was automatically drawn from the banks. She reported the average interest on investments was 5.24 percent. She reported the City had \$148 million dollars invested right now and year to date interest was \$3.2 million dollars. She indicated the Financial Statements would be included on a monthly basis on the Consent Agenda to keep everyone up to date.

C. 24-59 Presentation of the OpenGov digital platform for transparency on the City's finances

Ms. Arnold reported in 2017 Broken Arrow launched OpenGov, and when Broken Arrow moved to the new ERP system OpenGov went to the wayside due to difficulties. She reported OpenGov was now ready to relaunch, and she thanked the Finance Team for the time and effort which went into the relaunch. She explained this OpenGov was a different program. She made a demonstration on how to use the new OpenGov program at www.BrokenArrowOKOpenGov.com. She logged onto the website and walked the City Council through the OpenGov site.

City Council thanked and commended Ms. Arnold and her team.

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 Wimpee indicated no Citizens signed up to speak.

9. General Council Business

A. 24-54 Consideration, discussion and possible approval of and authorization to execute Resolution No. 1557, a resolution by the Broken Arrow City Council to submit grant applications to the Federal Emergency Management Agency for developing Master Drainage Plans

Stormwater Division Manager Pat Wilson reported the City of Broken Arrow had an opportunity to apply for five grants from the United States Federal Emergency Management Agency, FEMA, for developing Master Drainage Plans for five distinct watersheds: Adams Creek, Broken Arrow Creek, Elm Creek, Haikey Creek, and Aspen Creek. He reported if applied and awarded, the maximum City cost would be a 25 percent match or less. He stated \$500,000 dollars in unnamed funds from the 2018 GO Bond, Proposition 5, could go towards Master Drainage Plans, and the rest of the funds could come from other bond money, stormwater capital, and like kind services (staff time tracked and documented). He stated this

Resolution granted permission to apply for the grants; if awarded, he could come back before City Council to ask permission to accept the grants.

Council Member Johnnie Parks asked if the Master Drainage Plans would help deal with flooding.

Mr. Wilson responded in the affirmative.

Council Member Parks stated developing plans to alleviate flooding was something the City could use for the benefit of the community.

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

Move to approve and authorize execution of Resolution No. 1557, a resolution by the Broken Arrow City Council to submit grant applications to the Federal Emergency Management Agency for developing Master Drainage Plans

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

B. 24-147 Consideration, discussion, and possible approval of a budget transfer to re-furbish and re-mount one (1) 2019 AEV ambulance by Professional Ambulance Service DBA SERVS; and also purchase one (1) Horton Ambulance from SERVS including the additional equipment needed from Stryker

Fire Chief Jeremy Moore reported many months ago Council approved \$600,000 dollars to remount three ambulances for the Fire Department as part of the STCI budget for FY2024; however, due to challenges in obtaining sufficient chassis for remounting three 2019 ambulances, the Fire Department was requesting to reallocate some of those funds. He explained only one chassis would be able to be obtained in the Spring of 2024. He stated to move forward Staff recommended continuing to remount one ambulance as planned in the Spring, but then reallocating the remaining funds combined with other surplus Sales Tax Capital Improvement (STCI) funds to purchase one new fully equipped Horton Ambulance. He stated the Fire Department was asking City Council to approve and authorize a budget transfer to re-furbish and re-mount one 2019 AEV ambulance by Professional Ambulance Service DBA SERVS; and also purchase one Horton Ambulance from SERVS including the additional equipment needed from Stryker.

Vice Mayor Christi Gillespie asked if this was simply a fund reallocation.

Chief Moore responded in the affirmative.

Council Member Parks asked where the funds were coming from.

Chief Moore explained the funds were approved in the Fire Department Budget to complete three remounts of ambulances, now the approved funds would be reallocated to remount one ambulance and purchase one new ambulance. He said the funds were Fire Department funds budgeted to be used for ambulances, and it would still be used for ambulances.

Council Member Justin Green asked if the other two ambulances slated for remounting, which were not going to be remounted this year, were still serviceable.

Chief Moore responded in the affirmative. The other two ambulances were 2019 ambulances and would be serviceable until new chassis could be purchased for them in the 2025 Fiscal Year Budget. He stated purchasing a new ambulance now would add another ambulance to the fleet which would then be added to the remount rotation in five years. He stated this was a proactive solution to the problem of not being able to obtain new chassis.

City Manager Spurgeon stated he felt this was the best solution based on the circumstances.

MOTION: A motion was made by Christi Gillespie, seconded by Lisa Ford.

Move to approve a budget transfer to re-furbish and re-mount one (1) 2019 AEV ambulance by Professional Ambulance Service DBA SERVS; and also purchase one (1) Horton Ambulance from SERVS including the additional equipment needed from Stryker

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

C. 24-143 Consideration, discussion, and possible approval of a 90-day extension to adopt the updated Zoning Ordinance

Acting Community Development Director Grant Rissler reported Staff was requesting a 90 day extension for the Zoning Ordinance. He reported Community Development was working with Kendig Keast on the new Zoning Ordinance. He stated originally Staff anticipated having the new Zoning Ordinance ready for presentation in late January or early February. He noted as the deadline drew near, Staff realized there was more work to be done and were

asking for a 90 day extension.

City Manager Spurgeon stated he recommended approval of the 90 day extension.

Citizen Joe Hillenburg stated he was in favor of the 90 day extension, and he hoped City Council would approve. He indicated he was a lifelong resident in Broken Arrow, attended Planning Commission meetings, and was a National Sales Service Manager for Winches Inc.

Vice Mayor Gillespie stated she appreciated wanting to slow down and ensure the Zoning Ordinance was developed correctly and with intention.

Council Member Parks noted this particular Zoning Ordinance was quite a change from the previous Zoning Ordinance, so making sure it was done well was important.

MOTION: A motion was made by Christi Gillespie, seconded by Johnnie Parks.
Move to approve a 90-day extension to adopt the updated Zoning Ordinance
The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

D. 24-146 Consideration, discussion, and possible approval of the formation of a New City Hall Initiative Committee

Mr. Rissler reported at the last City Council Meeting, City Manager Spurgeon spoke with City Council about volunteers for the New City Hall Initiative Committee. He asked for approval to form the Committee. He noted volunteers included Debra Wimpee, Lisa Ford, Jaylee Klempa, Robert Goranson, and additional members would be appointed.

Council Member Parks asked if the City Council Members were required to submit an appointee before the end of January.

City Manager Spurgeon responded he would love to have the City Council Members appoint individuals to serve on the Committee. He said if the City Council knew of any who would be interested in serving on the Committee it would be beneficial.

MOTION: A motion was made by Justin Green, seconded by Johnnie Parks.
Move to approve the formation of a New City Hall Initiative Committee
The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

10. Preview Ordinances

There were no Preview Ordinances.

11. Ordinances

A. 24-138 Consideration, discussion and possible approval of Ordinance No. 3816 of the City of Broken Arrow, Oklahoma (the "City") approving utilization of apportioned tax revenues authorized by statewide vote adopting Article 10, Section 6C of the Oklahoma Constitution and implemented by the Local Development Act, 62 O.S. §850, et seq.; approving and adopting the Sunset at Broken Arrow Economic Development Project Plan and expressing intent to carry out the Project Plan; ratifying and confirming the actions, recommendations and findings of the Review Committee and the Planning Commission; creating and establishing Increment District No. 5, City of Broken Arrow; designating and adopting the Increment District boundaries and the Project Area boundaries; adopting certain findings; reserving to the City the authority to make minor amendments to the Project Plan; authorizing the City Council of the City to carry out and administer the Project Plan; establishing a Tax Apportionment Fund; authorizing directions for prospective apportionment of tax increments; establishing an allocation of use for tax increments; declaring apportionment funds to be funds of the City and limiting the pledge of apportioned increments to increments actually apportioned by the City; authorizing the City Council of the City, or a public trust designated thereby, to implement the Project Plan utilizing apportioned tax increments to pay or reimburse project costs directly and/or to issue bonds or notes, if feasible and desirable, to pay project costs and to retire said bonds or notes from apportioned tax increments; providing for severability; declaring an emergency; and containing other provisions related thereto

Ms. Arnold reported Ordinance No. 3816 was for the adoption of TIF District No. 5, between the City of Broken Arrow and Sunset of Broken Arrow. She reported two public hearings had been held, the TIF Review Committee recommended approval on December 7, 2023 through Resolution No. 1555, Wagoner County approved Resolution No. 2024-002 in support of the TIF, and the Planning Commission approved the TIF on December 14, 2023. She indicated the public hearings were held on January 2, 2023 and January 16, 2023 during regular City Council Meetings. She asked for adoption of Ordinance No. 3816 and approval of the emergency clause.

Mayor Wimpee noted last week a Town Hall Meeting was held with 115 people in attendance and there was excellent discussion.

MOTION: A motion was made by Johnnie Parks, seconded by Lisa Ford.

Move to adopt Ordinance No. 3814

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

B. 24-142 Consideration, discussion and possible approval of an emergency clause for Ordinance No. 3816

MOTION: A motion was made by Christi Gillespie, seconded by Justin Green.

Move for the emergency clause

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

C. 24-135 Consideration, discussion, and possible adoption of Ordinance No. 3815, an ordinance amending the Broken Arrow Code of Ordinances Chapter 5, Animals, Article I in General, Section 5-1 Definitions; specifically clarifying the definition of adequate shelter and nuisance animal; Section 5-6, deleting the dog/cat license fee, registration and tag generally; Section 5-10 Staking, confining or pasturing or tethering an animal, making it unlawful to keep animal on tether with certain recognized exceptions; Section 5-14.1 Management of dogs, cats, or ferrets that bite a person, specifically making it unlawful to refuse to confine a dog, cat or ferret that has bitten a person or other animal; Section 5-17, Cruelty to animals generally, adding additional behavior that constitutes an animal cruelty offense, including intentional harassment, overworking of an animal and allowing any animal to be provided to another person as a promotional item; Section 5-37 Redemption of impounded animal, removing requirement to provide a dog/cat license to redeem an impounded animal; Section 5-38, Destruction or sale of impounded animals; sterilization of adopted dog or cat, reducing the time for the destruction of impounded animals from five to three days from the time of its impoundment, adding additional factors the City may in refusing adoption of impounded animals, including when the applicant has a record of cruelty to animals, is under eighteen; has committed acts of harassment to animals; owns other animals in violation of Chapter 5; refuses to comply with adoption requirements; has released two or more animals to the Broken Arrow Animal Shelter in the last twelve months; lacks adequate housing for the adopted animal; has a conviction in Municipal Court for violation of Chapter 5; Section 5-40 Sale of animal, making it unlawful to offer or accept any animal for sale on any property not owned or rented by the seller or buyer with certain exceptions; repealing all ordinances to the contrary; and declaring an emergency

Mayor Wimpee indicated Item 11C was being tabled. She noted one citizen signed up to speak regarding this Item and she recommended Ms. Gutenkauf return when this Item was back on the Agenda.

Citizen Karen Gutenkauf asked if she could ask a few questions.

Mayor Wimpee responded in the affirmative.

Ms. Gutenkauf stated she was a 7 year volunteer with Lab Rescue. She stated in the 14 years she lived in Broken Arrow she rescued over 100 dogs. She stated stray dogs posed many problems and were a big concern to the community. She indicated she witnessed someone trying to rescue a stray dog from the middle of the road who was bitten in the face. She stated Section 5-38, "Destruction or sale of impounded animals; sterilization of adopted dog or cat, reducing the time for the destruction of impounded animals from five to three days from the time of its impoundment" would restrict residents from being able to locate their dogs and safely bring their pet home. She stated she understood there was an overabundance of stray animals in the City, but she felt a 3 day hold was very restrictive for pet owners to be able to find their animals. She noted her animals have been registered with the City, but occasionally get out and run away, and she felt this new 3 day restriction should be revisited. She asked what measures were in place to find pet owners, was the City checking for chips, and did Animal Control have the necessary equipment to do so. She stated she felt it was important for Animal Control to be able to check animals for chips to connect pets with owners.

Mayor Wimpee stated she wrote down Ms. Gutenkauf's questions and would give these questions to Staff to answer.

D. 24-136 Consideration, discussion and possible approval of an emergency clause for Ordinance No. 3815

This Item was tabled.

12. Remarks and Inquiries by Governing Body Members

Council Member Ford indicated she did a ride along on Sunday with a City Crew to clear snow from the roads. She stated the road clearing crew asked her to thank City Council for the recent salary increase. She stated she enjoyed the trip, and she commended City Crews for their excellent work.

Mayor Wimpee stated she received many messages commending the City Crews.

City Manager Spurgeon stated he received a phone call from a former City Council member who visited Sunday, who said he knew exactly when he was in Broken Arrow as there was a big difference between Broken Arrow and his new community just outside of Oklahoma City. He thanked Rocky Henkel and his team.

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

City Manager Spurgeon reported winter operations continued. He noted every winter weather event was different. He stated sand and salt did not work right now. He stated he believed the pretreatment Rocky Henkel's team laid down made a big difference. He noted the biggest concern right now was utilities. He indicated the City received 30 calls about utilities. He stated the City would continue to address problems as they arose and were reported. He asked residents to report any issues.

City Manager Spurgeon reported the Community Expo was coming up on February 10, 2024. He indicated this year's Expo had an excellent lineup of sessions, including the Community Survey, programs regarding domestic violence, etc. He stated the Community Expo would be at Stoney Creek starting at 9 a.m.

At approximately 7:14 p.m. Mayor Wimpee noted there was an Executive Session and called for a recess for BAMA and BAEDA.

MOTION: A motion was made by Christi Gillespie, seconded by Lisa Ford.
Move for a recess for BAMA and BAEDA

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

At approximately 7:47 p.m. the City Council meeting was reconvened by Mayor Wimpee who called for a motion.

MOTION: A motion was made by Lisa Ford, seconded by Justin Green.
Move to clear the room for Executive Session

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

City Council entered Executive Session at approximately 7:58 p.m.

MOTION: A motion was made by Christi Gillespie, seconded by Lisa Ford.
Move to enter into Executive Session

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

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, conferring on matters and possible action in open session pertaining to:

- 1. A pending litigation known as Harold Price v. City of Broken Arrow, et al., Eastern District of Oklahoma, Case No. CIV-23-437-RAW, under 25 O.S. §307(B)(4);**
- 2. A pending litigation known as Hoey Construction Company v. City of Broken Arrow, et al., Tulsa County District court, Case No. CJ-21-0702, 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 claims and litigation and disclosure will seriously impair the ability of the public body to process the proceeding in the public interest. Moreover, that the Executive Session is necessary to protect the confidentiality of the investigation and potential litigation. 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.

MOTION: A motion was made by Christi Gillespie, seconded by Johnnie Parks.
Move to find the Executive Session necessary

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

MOTION: A motion was made by Christi Gillespie, seconded by Justin Green.
Move to authorize the City Attorney to settle the matter of Hoey Construction Company v. City of Broken Arrow in the amount recommended by the City Attorney

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

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

Move to authorize the City Attorney to defend all defendants in the matter of Harold Price v. City of Broken Arrow

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

City Council returned to open session at approximately 8:22 p.m.

15. Adjournment

The meeting was adjourned at approximately 8:23 p.m.

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

Move to adjourn

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

Mayor

City Clerk