



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, October 16, 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 Greg Pittman.

3. Roll Call

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

4. Pledge of Allegiance to the Flag

Council Member Debra Wimpee 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 Scott Eudey.

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. 18-1023 Approval of Broken Arrow City Council Meeting Minutes of October 2, 2018**
- B. 18-1214 Approval of and authorization to execute Amendment No. 1 to the City Council Travel Policy**
- C. 18-1216 Approval of and authorization to accept Farmers Insurance Company's offer to settle a claim for vehicle loss, declaring the vehicle surplus and releasing it to Farmers Insurance Company**
- D. 18-1209 Approval of and authorization to execute a Service Agreement between Two Oaks Investment, LLC and the City of Broken Arrow to continue to provide services for Workers' Compensation claims administration**
- E. 18-1203 Approval of and authorization to execute Amendment No. 1 to Professional Consultant Agreement with Geodeca, LLC for Professional Surveying and related support services contract (Contract No. SURV-19-01)**
- F. 18-1210 Approval of and authorization to execute a Professional Services Agreement between the City of Broken Arrow and John Barnhart, P.C., Attorneys and Counselors at Law for providing counsel and legal advice regarding workers' compensation matters**
- G. 18-1169 Approval of and authorization to execute a Professional Services Contract with Destination Services, LLC to continue the implementation of the Strategic Plan for the Convention and Visitors' Bureau**
- H. 18-1180 Approval of and authorization to execute a Third Amended Attorney Engagement Agreement between the City of Broken Arrow and Tammy Ewing for providing counsel and legal advice on an as-needed and as-assigned basis, which may include prosecution of Municipal Court cases, representation in State Court litigation and review of contracts and drafting ordinances and other documents**
- I. 18-1204 Approval of and authorization to execute agreement with Oklahoma Natural Gas Company (ONG) for the relocation of existing ONG facilities in support of City of Broken Arrow project ST1411A - Albany Street (61st Street South) South Side Drainage Improvements**
- J. 18-1183 Approval of and authorization to purchase one (1) ¾ ton regular cab truck, cab and chassis from Vance Country Ford, pursuant to the Oklahoma Statewide Vehicle Contract, for the Fire Department**

- K. 18-1175 Approval of and authorization to purchase one (1) 1-ton, 15 passenger van from Carter Chevrolet, pursuant to the Oklahoma Statewide Vehicle Contract, for the Fire Department
- L. 18-1207 Notification of Professional Services Contracts with value of less than \$25,000
- M. 18-1182 Approval of BAZ-2012, Jang's FRC, 1.52 acres, 1 lot, R-1 to CH, southwest corner of Albany Street and Olive Avenue, north of the M.K.T. Railroad
- N. 18-1195 Approval of and authorization to execute Resolution No. 1142, a Resolution of Necessity to Condemn Property located in the SW/4 of Section 17, T-18-N, R-14-E of the Indian Meridian, Tulsa County, Oklahoma, for the Washington Street Improvements, Garnett to Olive, (Project No. ST1616)
- O. 18-1193 Approval of and authorization to execute Resolution No. 1144, a Resolution authorizing the acceptance of a General Warranty Deed for Parcel 10, which consists of 0.19 acres of Permanent Right-of-Way and 0.02 acres of Temporary Construction Easement for Florence Street Improvements, Olive To Aspen, located in the Northeast Quarter of Section 33, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from Philip A. Bryce

Revocable Trust, Philip A. Bryce, Trustee and the Mary E. Bryce Living Trust, Mary Elizabeth Bryce, Trustee and authorization of payment in the amount of \$20,520.00 for the Florence Street Improvements: Olive To Aspen, (Project No. ST1410)
- P. 18-1198 Approval of and authorization to execute Resolution No. 1145, a Resolution authorizing the acceptance of a General Warranty Deed for Parcel 1, which consists of 0.49 acres of permanent Right-of-Way for Florence Street Improvements, Olive to Aspen, in Southwest Quarter of Section 28, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from Dukes Investments, LLC., and authorization of payment in the amount of \$34,450.00 for the Florence Street Improvements: Olive to Aspen, (Project No. ST1410)
- Q. 18-1194 Approval of and authorization to execute Resolution No. 1146, a Resolution authorizing acceptance of a General Warranty Deed for Parcel 8, which consists of 0.16 Acres of Permanent Right-of-Way for Washington Street Improvements, Garnett To Olive, in the Southeast Quarter of Section 17, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from American Land Development Limited Partnership, the owner, and authorization of payment in the amount of \$3,526.00 to American Land Development Limited Partnership for the Washington Street Improvements, Garnett to Olive, (Project No. ST1616)
- R. 18-1196 Approval of and authorization to execute Resolution No. 1147, a Resolution authorizing acceptance of a General Warranty Deed for Parcel 9, which consists of 0.04 Acres of Permanent Right-of-Way for Washington Street Improvements, Garnett To Olive, in the Southeast Quarter of Section 17, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from American Land Development Limited Partnership, the owner, and authorization of payment in the amount of \$970.00 to American Land Development Limited Partnership for the Washington Street Improvements, Garnett to Olive, (Project No. ST1616)
- S. 18-1197 Approval of and authorization to execute Resolution No. 1148, a Resolution authorizing acceptance of a Temporary Construction Easement for Parcel 12A, which consists of 0.07 acres of Temporary Right-of-Way for Washington Street Improvements, Garnett to Olive, in the Northeast Quarter of Section 20, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from Janie Thomas, authorizing payment in the amount of \$1,800.00 for the Washington Street Improvements: Garnett to Olive, (Project No. ST1616)
- T. 18-1205 Approval of and authorization to execute Resolution No. 1149, a Resolution authorizing the acceptance of a General Warranty Deed for Parcel 17, which consists of 0.13 acres of Permanent Right-of-Way and 0.04 acres of Temporary Construction Easement for Florence Street Improvements, Olive To Aspen, located in the Northeast Quarter of Section 33, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from Four P Properties LLC and authorization of payment in the amount of \$22,050.00 for the Florence Street Improvements: Olive To Aspen, (Project No. ST1410)
- U. 18-61 Approval of the Broken Arrow City Council Claims List for October 16, 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. 18-1177 Presentation by the Tulsa City County Library Staff to announce the results of the 2018 Summer Reading Program challenge
Branch Manager of the South Broken Arrow Library Kelly McDowell reported there were three communities which accepted Tulsa's Summer Reading Program Challenge: Bixby,

Broken Arrow, and Skiatook. She stated the winner, for the second year in a row, was Skiatook who had 33% children participation. She reported Mayor Sutherland of Skiatook celebrated with a pie to the face last year and would do the same this year. She stated the City of Tulsa had 21% participation, and the City of Bixby had 32% participation. She reported Broken Arrow had 24% children participation, same as last year, with a total of 6,468 children who read 72,444 books. She stated the results for the whole County were 59,530 participants of all ages, 56% of the participants completed the program, with a total of 432,036 books read.

Ms. McDowell stated the Broken Arrow Library offered year round services which included homework help with certified tutors online for children 3rd grade through college level, and the Job Help Now program for individuals searching for employment with resume assistance and interview coaching. She stated there were Lifelong Learning opportunities available through Universal Class, Learning Express, Artist Works and Linda.com. She stated the Broken Arrow Library website, www.TulsaLibrary.org, had a new look, was more intuitive and user friendly. She reported this month was Teen Read Month and author Sara Paretsky would be at Central Library tomorrow at 7 p.m. She stated this week the Broken Arrow Library was making slime (registration required), and on October 25, 2018 South Broken Arrow Library would hold a pumpkin carving event: Steaming Smoking Pumpkins (registration required).

Ms. McDowell reported in November the Books to Treasure event would begin. She explained in 2017, 12,000 free books were distributed to second graders in Tulsa County, along with 3,000 special library cards for second graders. She stated the Books to Treasure event was funded by the Anne and Henry Zarrow Foundation and this year the illustrator was Shadra Strickland. She stated she hoped to distribute even more library cards to second graders this year. She stated the annual Peggy V. Helmerich Author Award would be awarded this December to Dame Hilary Mantel at the Central Library. She stated for more information, visit www.TulsaLibrary.org, or call 918-549-7323.

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 Christopher Harvey stated his address was 800 East Natchez Street, Broken Arrow. He stated on Hillside Drive, to County Line, the road split with two lanes in one direction and one in the other. He stated the signage for this split was very misleading with many near accidents in the area. He asked if a flashing light could be added to the signage to more clearly delineate the separation of the lanes. He reported County Line, between the Creek Turnpike and Jasper, had very poor drainage and flooded when it rained. He stated the road-side drainage ditch had hill-like sides which prevented proper water flow drainage. He asked if the ditch could be excavated to allow proper water flow and prevent flooding in the area. Mayor Thurmond stated no action could be taken regarding the Citizens' Opportunity to Address the Council. Mr. Harvey stated he understood; he just wanted to bring these items to the attention of the City Council for consideration.

City Manager Spurgeon stated a traffic signal had been approved at the intersection of Hillside and County Line. He asked Mr. Kenneth Schwab, Assistant City Manager if the planned traffic signal would address Mr. Harvey's concern at the road split. Mr. Schwab responded in the affirmative. Mr. Harvey thanked City Council. City Manager Spurgeon stated he believed the new traffic signal would be installed during the first quarter of next year. He asked Mr. Schwab to take Mr. Harvey's information and get back to him regarding the drainage issue. Mr. Schwab responded in the affirmative; he and Mr. Rocky Henkel, the Street and Stormwater Director, would investigate the situation and be in contact with Mr. Harvey.

9. General Council Business

- A. 18-1178 Consideration, discussion, and possible approval of SP-289 (Specific Use Permit), Events Center, 21.05 acres, A-1, one quarter mile north of New Orleans Street, east of 1st Place**
- Director of Development Services, Michael Skates, reported this Specific Use Permit was heard by Council on September 18, 2018. He stated several adjacent property owners addressed Council for and against the project. He explained Council continued the Item and staff was instructed to determine traffic counts, review the proposed New Orleans and 1st Place intersection plan, and revisit with the developer regarding types of events, hours of outdoor music, and development within the community. He reported this Specific Use Permit was for a phased event center, on approximately 21 acres, located in Level 1, Agricultural zoning district. He stated with SP-289 the applicant proposed to develop the site in phases, to include a 200 seat event facility in phase 1 located on the northeast portion of the property, and a 450 seat event facility in phase 2 located at the center of the property. He stated other proposed site features included a vineyard with greenhouse, a bridge across the creek leading to a gazebo, a patio area and a pond. He reported staff conducted traffic counts from September 20, 2018 through September 26, 2018 in two separate locations and the current average weekday and weekend counts had lowered over the past 10 years. He explained traffic counts had reduced owing to three factors: the New Orleans Street widening project in 2009 and 2010, teen drivers no longer attending the South Intermediate School, and Police Headquarters relocated out of the area. He stated the traffic count taken south of Washington

was the highest at 2,190 vehicles per day which was categorized Level of Service A (less than 5,100 average daily traffic count). He displayed a map which showed the intersection widening plan. He stated the intersection would be fully signalized with pedestrian crossings. He stated the developer, Victor Whitmore, with Precision Equity, LLC, was in attendance.

Mayor Thurmond asked about Level of Service A. Mr. Skates explained a Level of Service A traffic volume was excellent; traffic was very good on this road. He stated usually Broken Arrow attempted to meet Level of Service C or D which was a much heavier flow of traffic. Council Member Johnnie Parks asked what the hours of operation would be for the events center. Mr. Skates responded the hours of operation would be until 2 a.m. indoors, with no outdoor music past midnight. He stated staff recommended approval of SP-289 per Planning Commission and staff recommendation which included no outdoor music after midnight, a 4 to 6 foot berm with landscaping along the south boundary similar to the berm at the Walmart Neighborhood Market at Albany and 9th Street. He stated this event center reminded him of the Wedding Chapel event center on Washington, a low impact development. He stated he believed this development would have less impact than a church due to the limited size of both phase 1 and phase 2. He stated this event center would have approximately 110 parking spaces while other event centers had, on average, 250 parking spaces. Council Member Debra Wimpee stated the Glass Chapel in Broken Arrow was situated immediately next to a housing development. She asked if the city had received complaints due to the Glass Chapel. Mr. Skates responded the Glass Chapel had a wooded area and a creek which provided a buffer for the neighborhood which made it different from the proposed event center. He stated the developer was present and wished to discuss the types of events expected at this venue. Council Member Mike Lester asked if the event center would hold outdoor concerts. Mr. Skates responded in the negative.

Vice Mayor Scott Eudey reported the resident who lived on the northeast corner of New Orleans and 1st Place complained of drivers cutting through his drive way. He asked if the proposed traffic light would prevent this. Mr. Skates responded he was unsure, but he would consult with the Engineering Director in an effort to assist. Vice Mayor Eudey asked if the traffic signal was expected to increase traffic along 1st Place. Mr. Skates responded in the negative; he did not believe it would increase traffic along 1st Place; it would help southbound movement going left onto New Orleans. He stated the bigger benefit for the traffic signal was for school buses and parent student pickup as it would provide a safer driving environment.

Mr. Victor Whitmore with Precision Equity, LLC, stated he was present with his wife, a native of Broken Arrow. He stated he had five children and two grandchildren. He stated professionally he had invested in real estate full time since 2006, had property in five states, had an operations team in Tulsa of approximately 25, and owned and managed multifamily and retail shopping centers. He stated the event center idea was born in 2004 while he worked photographing weddings; as a result he had visited virtually every event center in the area. He stated this would be a full service event center geared toward all formal events, such as birthday parties, retirement parties, fundraising events, political events, weddings, etc. He stated no expense was being spared in the development of this center; it was intended to be a high end venue. He stated the woods on the east side of the property would be preserved. He stated there was a seven figure landscaping budget; over 70% of the site would be landscaped with heavy outdoor garden spaces. He stated a sound engineer was employed to mitigate noise pollution from the indoor spaces. He stated the woods provided a sound buffer as well. He stated strictly abiding by code restrictions was of utmost importance. He stated he understood the business model was based on trust with the citizens and the city. He stated the center was not being designed for outdoor events. Events were meant to be held inside. He stated the outside areas were gardens and small intimate settings.

Council Member Lester asked if outdoor music would be DJ or prerecorded. Mr. Whitmore responded a DJ might be used or perhaps acoustic guitar or small speakers for mingling music; basically quieter background music was intended for outside. He stated louder dancing music would be inside. Vice Mayor Eudey stated he understood the residents were worried about loud fraternity-type parties. He stated he believed that was not what Mr. Whitmore envisioned, but nevertheless, it was what the residents feared. Mr. Whitmore stated he would not want a similar event to take place in his own neighborhood, he was spending millions of dollars on development of this project, and loud fraternity parties could be damaging; therefore, it was not in the plan to hold such events. Council Member Lester asked if Mr. Whitmore had been vetted by a lender who was satisfied with his business model. Mr. Whitmore responded in the affirmative; the approval for financing was in place. Council Member Lester asked if Mr. Whitmore would be opposed to revisiting the outdoor music timeframe if the noise level became an issue. Mr. Whitmore responded in the negative; he would gladly reconsider outdoor music hours if problematic. Council Member Lester stated he wanted to be mindful of what Mr. Whitmore was doing, but it was important to be mindful of the neighbors as well. Mr. Whitmore concurred. Council Member Parks stated code restricted noise levels regardless. Mr. Whitmore stated he understood and would abide by all code restrictions. He stated he wanted to be an asset to the city, not a detriment. Council Member Lester asked if Mr. Whitmore had engaged a civil engineer to handle hydrology and water drainage. Mr. Whitmore responded in the affirmative.

Citizen G. Stephen Foerster stated his address was 2305 South 1st Place, Broken Arrow. He stated he was concerned about the events that would be held at the center. He did not believe the events could be controlled or that the event center would have the right to discriminate against certain types of events; the event center could be sued. He stated if events that were not approved were held there such as bike rallies, rock concerts, etc., residents might move away and property values could go down. He stated he was concerned about the traffic in the area. He stated the quality, not just the quantity of the traffic should be considered; you had to consider emergency vehicles. He explained there were seven different types of emergency vehicles which still utilized 1st Place: the police, fire, ambulance, street, stormwater, natural gas, and jail. He stated judges, attorneys and court personnel utilized 1st Place. He stated along 1st Place there was a softball field which held tournaments, the Freshman Academy, and a fire station was going to be built. He stated on either side of the proposed event center were two bridges with walls which bottlenecked the traffic along 1st Place. He stated he worried the emergency vehicles would be blocked in this spot whenever an event was held; seconds mattered when responding to emergencies. He stated there were already 180 event centers in the Broken Arrow area. He asked City Council to consider his statements.

Citizen Susan Minnick stated her address was 213 East New Orleans, Broken Arrow, right next door to Freshman Academy. She stated she worried about the traffic light. She stated the traffic count was done at 11:00 a.m., but in the morning there were many buses which drove through the area and turn into Freshman Academy. She worried the light would hinder through traffic into the Freshman Academy, the traffic would back up in the turn lane, and her driveway would be blocked. She stated she was concerned about the water runoff and flooding in the area. She stated when it rained heavily a lot of water ran down the street, and very quickly. She stated there was a large opening for stormwater in the center of her property and the water would completely block her driveway. She stated her grandchildren had difficulty getting off the bus and to the house as a result. She stated she was concerned about Broken Arrow Creek which flooded homes in the area in the past.

Citizen Nate Lovelle stated his address was 10000 South Lynn Lane, Broken Arrow. He stated he owned the property east of the proposed event center. He stated over the years he had acquired and consolidated 25 acres of land with the knowledge that the area was residential only. He stated he met with Victor Whitmore yesterday and felt he was a fine gentleman, but he did not think the event center was the right fit for the area. He stated City Council had the power to strictly regulate the facility and he hoped it would. He stated he would not wish to subject anyone to outdoor music until midnight regularly. He asked City Council to reduce the hours allowed for outdoor music to 10:00 p.m. or 9:00 p.m. He thanked City Council for its consideration.

Citizen Gayle Weber stated her address was 2023 South 1st Place, Broken Arrow. She stated she agreed with Mr. Stephen Foerster. She intimated she was appalled with the state of South 1st Place which was just repaved poorly, had no shoulders, and no sidewalk. She stated the re-pavement of the road created a six inch high drop-off from the road to the shoulder, and the mail truck, while pulling off the road a bit to deliver mail, got stuck on the drop-off. She stated she was unsure what a level A road was, but she did not feel safe crossing the road and she felt if South 1st Place was considered level A standards needed to be raised. She stated all roads should have shoulders, brightly painted lines, no drop-off, and sidewalks for the school children. She stated there would be increased traffic along 1st Place; residents used 1st Place as a short cut due to no stop signs or traffic signals. She stated she was not particularly worried about the noise, but this event center was commercial and when she bought her property it was only supposed to be acreage and residential. She stated this would adversely affect her property value. She stated she felt Mr. Whitmore should have held a meeting with all residents within a one mile radius of the proposed event center.

Citizen Terry Minnick stated his address was 213 East New Orleans, Broken Arrow. He stated he was concerned about the water runoff which would often get 10 to 12 inches deep. He stated Broken Arrow High School was growing, a new high school in the south would be needed soon, and Freshman Academy was one of the leading candidates for a new high school which would adversely affect traffic. He stated he was worried about noise pollution from amplified outdoor music.

City Manager Spurgeon stated last Wednesday at the Chamber Luncheon the Superintendent reported there was no funding to build a new high school, it would be at least 12 years before acquisition of funding could be considered, and there were several sites which were more likely to be chosen over Freshman Academy.

Council Member Wimpee reported she understood the event center developer had held meetings with the local residents. Mr. Skates reported legally the city was required to notify any residents within a 300 foot radius; however, the developer and the consultant sent out notices to a larger group of surrounding property owners and held a meeting several weeks ago at El Chico which he understood went well. He stated Paradigm Group, LLC, intended to residentially develop the 40 acres south of the pond. He stated the event center was low intensity use, was permitted in agricultural areas and did not require commercial rezoning. He stated he felt the event center would increase property value in the area; it would be an asset to the area. He stated staff would be

working closely with Mr. Whitmore to ensure the buildings were sound proof and that the adjacent neighbors could not hear the music. He stated every effort would be made to ensure that the expressed concerns were taken into consideration and addressed.

Council Member Parks stated when the event center was developed stormwater in the area would improve. He stated the Comprehensive Plan intended residential use of the area and he asked how many apartment buildings could fit in the 21 acres lot. Mr. Skates responded approximately 400 apartments. Council Member Parks stated this was comparable; whether it was an event center or apartment buildings there would still be a traffic increase. Mr. Skates stated a traffic impact analysis would be completed, if the project was approved, which evaluated the deceleration lane and acceleration lane on the driveways, as well as whether a left turn lane needed to be installed southbound. He stated this area had been Level 1 for a long time and the lots were fairly deep and relatively non-developable due to current building and fire codes for access.

Council Member Lester stated he had served nearly 25 years on the Council, Planning Commission and Board of Adjustments. He stated he had been involved in a number of projects which had risen to this level of involvement and concern from those who lived close by. He stated never had one of those projects lowered property values or justified the concerns which were addressed. He stated it was very unlikely there would be an event at the center while school was in session. He stated if there was ever an emergency event which required the response of all the various emergency vehicles it was highly unlikely a recreational event would be taking place at the same time. He stated all the concerns were well-spoken, deserved consideration, and would receive consideration, but historically he had not seen these types of concerns become truly problematic.

Vice Mayor Eudey stated in any new development studies were completed to ensure water running through the area was not increased or decreased. He stated when a project of this magnitude was considered it was extremely important to consider the movement of public safety vehicles, which was why during the last City Council Meeting he had asked the Fire Chief and the Police Chief about the use of 1st Place, and as a result he was under the impression the only time an emergency vehicle on an emergency run utilized 1st Place was when there was an emergency along 1st Place; there was not an increased number of emergency vehicles utilizing 1st Place as compared with any other area the city. City Manager Spurgeon stated when emergency vehicles were given permission to refuel at any gas station the need to drive on 1st Place was significantly reduced.

Vice Mayor Eudey stated he occasionally drove down 1st Place on his way home, and he understood a side walk and jogging trail would be constructed soon. He asked if there was a schedule for this construction. City Manager Spurgeon stated the city had voter approval, funding, and a grant, and would start construction of the trail in 2019. He stated Mr. Schwab would contact the Minnick's regarding the traffic signal, drainage and the street concerns. He stated connectivity (sidewalks) was a City Council priority and over the next 10 years the city would spend \$250,000 dollars to \$350,000 dollars procuring connectivity which would address many sidewalk concerns.

Council Member Lester stated as this project moved forward it was important for excess noise in the neighborhood to be addressed.

Council Member Parks stated this was a very difficult decision. City Council concurred. Council Member Parks asked if the zoning was required to be changed for this development. Mr. Skates responded in the negative; zoning was not required to be changed; only a special permit was issued.

Council Member Parks stated the developer had intimated that noise control and satisfaction of the surrounding neighbors was a high priority. He stated he was not concerned about flooding; the developer's engineers and the city's engineers would work together to ensure water did not flow any faster off of the event center property upon completion. He stated the city would ensure this development was completed in the proper manner and all noise pollution code upheld. Mr. Skates concurred. He stated he would be happy to keep the City Council updated with traffic impact analyses and detailed site plans, etc. Council Member Parks stated he would appreciate that. Vice Mayor Eudey stated project in which developers worked with the surrounding neighbors, and addressed the various concerns, were the most successful.

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

Move to approve SP-289 per Planning Commission and Staff recommendation with the modified conditions of approval and subject to the following: all outdoor activity will cease at 12 a.m. and is subject to review

The motion carried by the following vote:

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

- B. 18-1224 **Consideration, discussion and possible award of a bid to the lowest responsible bidder for the construction of a modified soldier wall for the Tiger Hill Plaza Project, located on the Southwest corner of Lynn Lane (9th Street) and Kenosha Street (71st Street) and possible authorization to execute a construction contract for the modified soldier wall**

Engineering and Construction Director Alex Mills distributed informational documents to the City Council. He reported on September 25, 2018 and October 2, 2018, the Engineering and

Construction department advertised construction documents for the modified soldier wall, and bids opened up at 2 p.m. today, October 16, 2018. He stated the Engineer's estimate for the project was \$1,831,805.60 dollars. He stated five bids were received and all were deemed responsive. He stated the lowest bid was from Stronghand, LLC in the amount of \$1,498,681.24 dollars. He asked City Council to award the construction contract to the low bidder.

Mayor Thurmond asked if Mr. Mills was comfortable with Stronghand, LLC. Mr. Mills responded in the affirmative; Stronghand, LLC completed a small park project for Broken Arrow and had completed several projects for the City of Owasso who gave Stronghand a good recommendation.

Council Member Lester asked if Stronghand had experience with this type of project. Mr. Mills responded in the negative; there were very few who had experience with this type of project as it was an atypical, rare type of wall; however, he felt there would not be problems as the plans were very well organized and straightforward. Council Member Lester asked if the wall was to be constructed using a similar material to the existing wall. Mr. Mills responded in the negative; it had a pattern which made it look like the existing wall, but was actually precast concrete.

Council Member Parks asked how high the wall would be. Mr. Mills responded wall height varied, but would be 17 feet at the peak and 17 feet out from the existing wall. He stated the drainage behind the existing wall would also be improved with this project. Council Member Parks asked about the drainage. Mr. Mills reported drainage channels would be located behind both the existing wall and new wall which would funnel the water down into underground drainage.

Vice Mayor Eudey asked if Mr. Mills was comfortable that the project could actually be completed for the \$1.5 million dollar bid. Mr. Mills responded it was difficult to be sure, but the bids were all similar, which was a positive indicator of achievability. City Manager Spurgeon asked about the construction schedule. Mr. Mills responded taking into consideration weather conditions, he felt it would take approximately nine months to complete with a solid five months to six months of actual construction time.

Council Member Lester asked if the city would be inspecting the project or hiring an outside inspector. Mr. Mills responded inspection would be done by the city, but he would consider outside inspections if the City Council preferred. Council Member Lester stated this project merited extra inspection and oversight. Mr. Mills concurred. Vice Mayor Eudey stated outside inspection also defrayed liability to some degree. Council Member Lester asked if this project was designed by an outside engineer. Mr. Mills responded in the affirmative; Olsen and Associates designed the wall. Mayor Thurmond asked if there was a start date for construction. Mr. Mills responded in the negative.

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

Move to award the lowest responsible bid to Stronghand, LLC, and approve a contract for the construction of the modified soldier wall for the Tiger Hill Plaza Project and authorize its execution

The motion carried by the following vote:

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

- C. 18-1211 Consideration, discussion, and possible approval and authorization to execute Resolution No. 1150, a Resolution providing for the issuance of General Obligation Refunding Bonds in a principal amount not to exceed Eight Million dollars (\$8,000,000) 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; Approving an official statement for the refunding bonds; Waiving competitive bidding and designating an underwriter for the bonds and authorizing execution of a bond purchase contract, escrow fund agreement, continuing disclosure agreement and paying agent/registrar agreement; Approving legal services agreements and a financial services agreement with respect to the issuance of the bonds and providing other details of the issue**
- Finance Director Cindy Arnold reported the city had two General Obligation Bonds, Series 2008 and 2009B, which were subject to redemption which provided the city an opportunity to refinance and refund the bonds to reduce future interest cost. She stated John Wolfe from Municipal Finance Services was in attendance to discuss the particulars.

Mr. John Wolfe reported the next four Agenda Items addressed General Obligation Bonds with Resolutions. He stated Item C addressed two outstanding Bonds which had prepayment or call options 10 years from the date of issuance which allowed the city to pay the bonds off early or refinance/refund the bonds. He stated the 2008 Bonds were currently pre-payable, with a 30 day notice at any point in time and the 2009B Bonds were pre-payable February 1, 2019 with a 30 day notice at any time. He stated both Bonds had an interest rate of approximately 4.3% with terms that expired in 2023 and 2024, and today's interest rates were approximately half of 4.3%; therefore, there was an opportunity to refinance at a lower rate. He briefly described the process of refinancing and the options available to the city including underwriters, taking bonds to market,

required public hearings, state statutes and criteria. He reported the city received five proposals from underwriters and the low proposal was from Wells Nelson and Associates, LLC, a broker dealer firm located in Tulsa and Oklahoma City, with the lowest underwriting fee and the lowest interest spread difference. He recommended City Council approve Wells Nelson and Associates, LLC, as the broker dealer, move forward, and work with the underwriter to price the Bonds on November 13, 2018. He recommended City Council set the expected interest rate cap at 2.75% which would prevent refinancing at a rate higher than 2.75%.

Council Member Lester asked if there were any estimated net savings that the City would incur. Mr. Wolfe responded in the affirmative; net savings were projected to be over \$400,000 dollars.

Ms. Cindy Arnold stated staff recommended execution of Resolution No. 1150 to refund Series 2008 and Series 2009B General Obligation Bonds.

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

Move to approve Resolution No. 1150 and authorize its execution

The motion carried by the following vote:

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

- D. 18-1219 **Consideration, discussion, and possible approval and authorization to execute Resolution No. 1151, a Resolution fixing the amount of Series 2018B Bonds to mature each year, fixing the time and place the bonds are to be sold and authorizing the clerk to give notice of said sale as required by law; Approving the preliminary official statement pertaining to said bonds; Ratifying a legal service agreement with Kiser Law Firm, PLLC, Financial Advisor Services Agreement with Municipal Finance Services, Inc. and an Engagement Letter with the Hawkins, Delafield and Wood, LLP, Law Firm; And containing other provisions with respect to the issuance of General Obligation Bonds**

Finance Director Cindy Arnold reported on October 2, 2018 City Council approved the sale of \$10,860,000 dollars in General Obligation Bonds for the projects listed in the City Council Packet. She stated Resolution No. 1151 set the amount of bonds to be issued, and the time and place of sales. She reported the bonds would be referred to as Series 2018B and were scheduled to be awarded on November 13, 2018 and anticipated to close in December 2018. She reported the proposed sales represented the 5th and final series of the bonds to be issued from the election of August 26, 2014. She stated the bonds would carry a term of 20 years.

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

Move to approve Resolution No. 1151 and authorize its execution

The motion carried by the following vote:

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

- E. 18-1212 **Consideration, discussion, and possible approval and authorization to execute Resolution No. 1152, a Resolution fixing the amount of Series 2018C Bonds to mature each year, fixing the time and place the bonds are to be sold and authorizing the clerk to give notice of said sale as required by law; and containing other provisions with respect to the issuance of general obligation bonds**

Ms. Cindy Arnold reported on October 2, 2018 City Council approved the sale of \$11.5 million dollars in General Obligation Bonds for the projects listed in the City Council Packet. She stated Resolution No. 1152 set the amount of bonds to be issued, and the time and place of sales. She reported on August 28, 2018, an election was held for the purpose of submitting to the voters the question of issuance of the General Obligation Bond and the following were approved: \$142,625,000 dollars for construction and repair of streets, \$20 million dollars for public safety purchasing, construction and repair, \$16.8 million dollars for furnishing and equipping public buildings, \$7.5 million dollars for construction and repair of stormwater, and \$5.5 million dollars for drainage improvements. She stated 2018C would be the first series sold from the bond election and included: \$5.3 million for Proposition 1 Streets, \$1.5 million dollars for Proposition 3 Quality of Life, \$3,870,000 dollars for Proposition 4, and \$820,000 dollars for Proposition 5 Stormwater. She stated the bonds would have a term of 20 years.

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

Move to approve Resolution No. 1152 and authorize its execution

The motion carried by the following vote:

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

- F. 18-1220 **Consideration, discussion, and possible approval and authorization to execute Resolution No. 1153, a Resolution fixing the amount of Series 2018D Bonds to mature each year, fixing the time and place the bonds are to be sold and authorizing the clerk to give notice of said sale as required by law; Approving the Preliminary Official Statement pertaining to said bonds; And containing other provisions with respect to the issuance of General Obligation Bonds**

Ms. Cindy Arnold reported on October 2, 2018, City Council approved the sale of \$1 million dollars in Series 2018D bonds for Proposition 6: stormwater not exclusively owned by the City.

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

Move to approve Resolution No. 1153 and authorize its execution

The motion carried by the following vote:

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

G. 18-1225 Consideration, discussion, and possible approval and authorization to execute Resolution No. 1154, a Resolution of the Broken Arrow City Council approving and authorizing an agreement between the City of Broken Arrow and Windstream

Assistant City Manager of Operations Kenny Schwab reported Resolution No. 1154 authorized the City of Broken Arrow to enter into an agreement with Windstream for the relocation of its line on the Broken Arrow owned property on North Main between Main and 1st Street, and between Detroit and Elgin. He stated on August 7, 2018 Broken Arrow entered into an agreement for development of the property with the condition that utilities be relocated to allow for the foot print of the proposed building; Windstream was the final utility to be relocated. He reported the estimate to relocate the Windstream line was approximately \$105,000 dollars, as the line, though older technology, was special made. Council Member Parks asked about the timeframe. Mr. Schwab responded it would take approximately four weeks to manufacture the line and approximately two months to have the line relocated.

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

Move to approve Resolution No. 1154 and authorize its execution

The motion carried by the following vote:

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

H. 18-1170 Consideration, discussion, and possible approval of one voting delegate and one alternate voting delegate for the National League of Cities Annual Business Meeting held Saturday, November 10, 2018 in Los Angeles, California

Assistance City Manager of Administration Russell Gale reported the majority of the City Council would attend the National League of Cities (NLC) Conference in Los Angeles the week of November 6, 2018 and the Annual Business Meeting scheduled for November 10, 2018. He stated the NLC indicated the city could designate one voting member and two alternates to attend the Annual Business Meeting and participate. He stated Mayor Craig Thurmond, Council Member Lester, Council Member Parks, and Council Member Wimpee were scheduled to attend. He asked City Council to select a delegate and two alternates.

Council Member Lester recommended Mayor Thurmond as the delegate, and Council Member Parks and Council Member Wimpee as the alternates.

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

Move to approve Mayor Thurmond as the delegate, and Council Member Parks and Council Member Wimpee as the alternates, for the Annual Business Meeting, Saturday, November 10, 2018, in Los Angeles, California

The motion carried by the following vote:

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

10. Preview Ordinances

There were no Preview Ordinances.

11. Ordinances

There were no Ordinances.

12. Remarks and Inquiries by Governing Body Members

Mayor Thurmond stated October was Pinktober and reminded the Citizens of Broken Arrow of the importance of breast cancer screening. He stated breast cancer was a devastating illness which needed a proactive approach.

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

City Manager Michael Spurgeon stated as a result of the NLC, City Council would meet Monday, November 5, 2018 at 6:30 p.m. He stated in regard to the Sound Mind project Norman Stephens and Legal continued to work through the details of the transaction for sale of the land. He stated he hoped to recover the funds spent on relocation of the utility lines at the time of sale. He stated in regard to Milestone, the city was determining the best time to begin the streetscape construction, which he believed would be next year.

City Manager Spurgeon stated in January 2019 City Council would be asked to review a banner policy for approval. He stated on November 5, 2018 the governing body of Broken Arrow would receive a presentation from Mark Fry regarding the proposed Center for the Creative Arts and operations funding. He stated the letters regarding the recycling pilot programs were sent to the residents who were selected to participate in the programs. He stated the Meet and Greet for the recycling program would be held in November 2018. He stated the pilot programs

would begin in January 2019. He stated the entire City of Broken Arrow would be educated and made aware of the recycling program and pilots. He thanked Mr. Russell Gale and Mr. Lee Zirk for working very hard to ensure every detail had been tended to.

City Manager Spurgeon reported two meetings were held regarding the Storm Shelter Program; well over 400 citizens attended the meetings and showed interest in the Storm Shelter Program which would grant a storm shelter construction reimbursement of \$2,000 dollars to each approved applicant. He stated he believed the city would receive over 100 applications. He thanked Jamie Ott and Michael Skates for coordinating the Storm Shelter Program Meetings.

City Manager Spurgeon stated progress was being made regarding the Veterans Building and the Senior Annex; City Council should expect recommendations and updates from the Senior Council and/or the Veterans Group in this regard. He stated the Broken Arrow Ministerial Alliance meeting was moved to October 31, 2018.

City Manager Spurgeon congratulated Paul Bighorse for obtaining his Commercial Electrical Inspection License.

At approximately 8:13 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 8:19 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 Debra Wimpee, seconded by Scott Eudey.

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. Potential Litigation, including potential resolution of Elias Nuaman v. The City of Broken Arrow, a pending tort claim, including possible authorization to settle this tort claim, under 25 O.S. §307 (B)(4)**
- 2. Litigation, including potential resolution, of a matter involving the litigation case of The City of Broken Arrow v. Abatement Systems, Inc. et al., Wagoner County District Court Case Number CV 18 4, under 25 O.S. §307 (B)(4)**
- 3. Litigation, including potential resolution, of a matter involving the litigation case of Cloudi Mornings, LLC vs. City of Broken Arrow et al., Tulsa County District Court Case Number CV 2018 1213, under 25 O.S. §307(B)(4).**
- 4. Litigation, including potential resolution, of a matter involving the litigation case of Nikel Investment, LLC vs. City of Broken Arrow et al., Tulsa County District Court Case Number CJ 2017 01470, 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 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 8:39 p.m. Mayor Thurmond reconvened the regular session of the City Council Meeting and the room was opened to the public.

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

Move to find that the Executive Session was necessary

The motion carried by the following vote:

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

Move to authorize the City Attorney to proceed with settlement of Elias Nuaman vs. the City of Broken Arrow as directed in executive session

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

Move to authorize the City Attorney to reject Abatement Systems offer to reconsider negotiations relating to the total take of the subject property, proceed with the condemnation action in the matter of the City of Broken Arrow vs. Abatement Systems and authorize the City Attorney to file any civil action necessary for Abatement Systems to vacate the subject property

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

Move to ratify the Objection, Answer and Partial Motion to Dismiss filed in the matter of Cloudi Mornings vs. City of Broken Arrow et al, authorize the City Attorney to enter into the Joint Application for Entry of Final Declaratory Judgment and proceed with filing an appeal of the Final Declaratory Judgement

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

Move to authorize the City Attorney to enter into a Stipulation Agreement in the matter of the City of Broken Arrow vs. Nikel et al to remove the billboards located in the West Fargo Street Extension

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

The meeting adjourned at approximately 8:42 p.m.

Move to adjourn

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

Mayor

City Clerk