

- M. 16-1353 **Approval of bids received and award the lowest responsible bid to Avery Dennison for a TrafficJet 1638 digital print system and laminator for the Street Division Sign Shop**
- N. 16-1398 **Approval of bids received and award the lowest responsible bid to Kubota Center for a Skid Steer Loader for the Street Division**
- O. 16-1415 **Notification of Change Orders and Work Orders with a value of less than \$25,000 on public contracts**
- P. 16-1433 **Approval and authorization to execute Change Order C03 for Construction Contract ST1307, Dallas Street Improvements, Magnum Construction, Inc.**
- Q. 16-1407 **Approval and authorization to execute Work Order WO-017, Contract for Portland Cement Concrete Street Repairs, Tri-Star Construction, Bid #16.126**
- R. 16-1428 **Acceptance of a General Warranty Deed for Parcel 5, which consists of 0.16 acres of permanent right-of-way for 23rd Street, Houston to Kenosha, in the Northwest Quarter of the Northwest Quarter of Section 18, Township 18 North, Range 15 East, at the Southeast Corner of 23rd Street and Houston Street, from Don C. and Mary H. Couch, for the 23rd Street Widening from Houston to Kenosha Project (Project No. ST0914)**
- S. 16-1394 **Acceptance of a Deed of Dedication from The William K. Warren Medical Research Center, Inc., located on the southwest corner of New Orleans Street and Aspen Avenue, Tulsa County, State of Oklahoma, (Section 28, T18N, R14E)**
- T. 16-1435 **Acceptance of a Utility Easement from The William K. Warren Medical Research Center, Inc., located on the southwest corner of New Orleans Street and Aspen Avenue, Tulsa County, State of Oklahoma, (Section 28, T18N, R14E)**
- U. 16-847 **Approval of the Broken Arrow City Council Claims List for December 06, 2016**

6. Consideration of Items Removed from Consent Agenda

There were no items removed from the Consent Agenda. No action was required or taken.

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

- A. 16-1403 **A public hearing regarding the annexation of property located on 27.97 acres of land and legally described as a tract of land in the South Half of the Southeast Quarter (S/2 SE/4) of Section One (1), Township Seventeen (17) North, Range Fourteen (14) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma**

City Attorney Beth Anne Childs stated that they had received a request to annex the property into the City limits and Development Services had processed the request. The law required a public hearing on the proposed annexation and previewing of an ordinance would follow. She assured that they had provided notice those within a 300-foot radius of the property and published a notice in accordance with state law.

Councilman Lester posed a question about the address indicated for the property, saying it might not be recognizable as a true address to people in the area. Farhad Daroga, Special Projects Manager, indicated that the property would have another addressed upon development as part of a single-family subdivision.

Vice-Mayor Carter called a public hearing, inquiring if any person wished to speak on the matter. Mark Autry, 12830 South 189th Street East Avenue, clarified how the address was listed, referring back to Councilman Lester's question. Vice-Mayor Carter asked two more times if anyone wished to speak. Receiving no reply, he closed the public hearing.

Mayor Thurmond returned to the room at approximately 6:37 p.m.

- B. 16-1397 **Presentation of street system survey results by IMS Infrastructure Management Services, LLC**

Streets and Stormwater Director Steve Arant introduced Zac Thomason, National Service Manager of Infrastructure Management Services, LLC (IMS), and Clint Myers, Engineering Technician with the Department of Streets and Stormwater, whom he commended for his work on the project. Mr. Arant recalled that in November 2015, citizens voted to approve the Vision 2025 Sales Tax extension and that earlier, in October of that year, the Council had approved a contract for the professional services of IMS. Mr. Thomason was there to share the results of his firm's streets and signage survey.

Mr. Thomason said he would be reviewing IMS's 2016 State of the Roadway Network in Broken Arrow report. Referring to a scale of investment network valuation pie chart, Mr. Thomason stated that the City owned approximately 509 center lane miles of roadway, equating to roughly 9 million square yards of pavement, making pavement the single largest asset owned and maintained by the City. The pavement was valued at \$1.13 million per mile: a total aggregate of over half a billion dollars. A network average Pavement Condition Index (PCI) score representing an early assessment of roadway conditions was 70, on a scale of 1 to 100, or very good. The backlog, constituting rehabilitation or full reconstruction and partial reconstruction needed was 4%: a financially very healthy figure. Explaining that the numbers placed them in a strong position to manage the network, Mr. Thomason emphasized that it

was far more cost effective to maintain an asset over its lifespan than to allow it to deteriorate and be obliged to rebuild later on. Pavement management was a threefold process that involved understanding the condition of the pavement, prioritizing, and employing industry-standard analysis techniques and city-specific reporting methodologies. The third ingredient consisted of city-specific objectives, level of service policies and existing budgets.

Mr. Thomason went over some tools used to rate the roads, including a laser service tester that was mobilized in Broken Arrow, used to gather the full range of pavement distress data that could be analyzed. Asphalt roads in good condition required only a surface treatment, while good concrete roads required a localized remove and replace, or crack and joint sealing. Asphalt roads in poor condition required a thick overlay or partial reconstruction as rehabilitation, while concrete ones required something more extensive in terms of panel replacement. Mr. Thomason displayed photos of Broken Arrow roads exhibiting base and/or structural failure, rutting and excessive cracking, explaining that they needed full reconstruction. Citizens complained about such roads most often. Safety did become a concern at a very low PCI of below 10, where potholes and other distortions formed. Mr. Thomason showed examples of poor-to-marginal roads in Broken Arrow, scoring 25 to 50 next, pointing out that attention to such roads was a high priority to avoid reconstruction. He showed examples of some fair roads scoring 50 to 60, exhibiting progressive cracking, localized distress and little base failure. He explained that such roads were at optimum timing for a thin to moderate asphalt overlay or moderate panel replacement for concrete routes. Prioritizing roads of this type yielded many benefits, including early lower cost and the greater return of less grinding and less work to be done with regard to drainage. Mr. Thomason went on to display good (60-70 PCI) and very good roads (70-85 PCI), which required minimal rehabilitation and yielded the highest cost-benefit. Finally, photos of excellent roads (85-100 PCI) were shown, with Mr. Thomason stating that they should provide a solid 5 to 10 years of service prior to initial rehabilitation, aside from some routine maintenance.

Mr. Thomason reiterated that in comparison with national statistics for cities, Broken Arrow was in a coveted spot in terms of its current network average. He stated again that the City's backlog of 4% was phenomenally good, adding that a 20% backlog would place a city in a position of not having enough capital to catch up, creating a snowball effect that could spiral out of control, downward. Broken Arrow also scored well at 15% regarding percentage of excellent roads (roads above 85 PCI), meaning that the City had been reinvesting in the network close to the steady State requirement, providing the funds needed to maintain existing conditions of road network.

Referring to IMS's street sign inventory, conducted using a van equipped with high definition imaging that they made use of in their post-process assessment. A total of 17,500 signs were inventoried, illustrating that they were a big asset for the City, as well.

Mr. Thomason went over the methodology employed by his firm, stating that they had set out to identify an annual budget that would enable Broken Arrow to maintain current PCI, along with handling backlog. In order to do that they had to examine the effects of the City's current funding levels. Mr. Thomason indicated that repairs relating to Americans with Disabilities Act (ADA) compliance were not included in their estimates, nor was cost inflation. Their methodology was also based upon priority, not worst-first and starting at the bottom according to PCI, which would result in neglect of routine maintenance of better roads. Before analyzing the data, IMS conducted a couple of life cycle estimates, using textbook estimates of the industry, which were preliminary in nature. Although not the final numbers, Mr. Thomason explained, they nevertheless served to validate and fine tune the final numbers. The first estimate he displayed was based on the City's network value of in excess of \$500 million, divided by the theoretical lifespan of each of the two pavements types. The life cycle cost equaled roughly \$9.5 million annually that needed to be spent. Estimate #1 did not take into account road conditions but presented a ballpark figure. Estimate #2 was based on current condition (PCI) for both pavement types, to which was applied an average treatment to the number of miles falling in both categories, which came up with an annual need for funding of about \$8.3 million. The third and final life cycle estimate was based on the City's total deficit. The sum total of nearly \$85 million, as shown in the second column of Estimate #3, reflected the total cost required to fix all Broken Arrow roads to like-new condition. It came out to \$6 million annually to maintain current conditions (current PCI), not including routine maintenance activities, ADA compliance, culvert or ditch repair, signage, striping, bike lanes or road widening.

Mr. Thomason displayed the final analysis routines that formed part of the City's new pavement management program IMS had configured. A graph displaying the annual budget in a five-year horizon plotted against post-rehab PCI was shown. In essence, they were seeing what happened to the average network PCI score under several different funding scenarios. Mr. Thomason concluded that if the City wanted to maintain a PCI of 70, an annual investment of roughly \$4.4 million would be needed. He pointed out that the green line on the graph represented the City's existing budget plus committed bond work from the 2011 and 2014 bonds. With existing bonds and current funds applied in a five-year horizon, the PCI would actually increase from 70 to 73, and the backlog would drop from 4% to 2%, putting the City into an even healthier position, and all by way of existing funds. Another budget graph was displayed plotting each year of the coming five years on the X-axis, against the effect on PCI on the Y-axis, under several budget scenarios. The black line at the bottom of the chart illustrated what would happen if the City did nothing during the next five years, indicating that the PCI would drop from 70 to around 62.

With reference to rehabilitation needs and selection of specific roads, Mr. Thomason turned to a graph indicating PCI versus sum of load-associated distress deducts with applied rehabilitation activities. He clarified that every red dot represented a segment of road surveyed, while every box represented a rehab action that could be applied to address each road based on its current condition. Arterials were given the highest priority, followed by collectors and locals, in keeping with textbook pavement management guidelines. However, the rehab order of selection would be based on the cost of deferral. Mr. Thomason summarized that when working with limited funds, they wanted to optimize the rehabilitation program as much as possible by adopting a cost-benefit approach.

Mr. Thomason presented MSI's final recommendations which included maintaining a PCI at or above 70, with a backlog below 5% for the entire roadway network. He reiterated that applying a budget of \$6.75 million would result in network PCI of 73 and backlog under 2% over the coming five years. Additionally, they recommended use of the full suite of rehabilitation strategies to be reviewed on an annual basis including steady, effective rehabilitation and maintenance saving the City money over deferred maintenance, and resurveying of streets every few years to update road condition data, the rehabilitation program and pavement management system models.

Councilman Lester asked for clarification on whether the budgeted \$6 million would enable them to maintain all roads on par with their present condition or whether it would allow them to continue to upgrade to the condition the roads needed to be in. Mr. Thomason replied that they would actually be improving them with the existing funds of \$6.75 million annually.

Councilman Eudey asked if the analysis takes into account when the bond money is no longer there, Mr. Thompson responded no, it's a 5-year horizon based on the budget the city has committed for the next 5 years.

City Manager Michael Spurgeon interjected that as discussed the previous year, the Vision Tax had been repurposed, which would, it was anticipated, generate just over \$3 million. Included as part of the next General Obligation Bond package to go to the voters for consideration, would be an additional \$3 million for roads. With the PCI report in hand as a tool, they could actually look at the condition of roads and determine which were in need of attention to keep their PCI rating high. The Council would ultimately decide on the course of action when it was presented to them in the coming year.

Councilman Parks requested clarification that if a road were bad and could get a little worse, and there was a better road that wouldn't cost as much to rehabilitate, they were advised to spend money on the better road instead. Mr. Thomason answered that that very well could be the case, explaining that there would always be a backlog of bad roads and it was a matter of going with the right financial decision. Councilman Lester commented that as he understood, it would not preclude fixing potholes and individual problems on a roadway, while deferring a total rehab, and Mr. Spurgeon concurred. Councilman Parks observed that he was in agreement with what the consultant's advice, but there were other considerations to take into account, which Mr. Spurgeon alluded to. A situation where a citizen was upset about the wear and tear on his car and couldn't understand why roads in better shape were being rehabilitated, when the road on his street was falling apart, was one example. Mr. Thomason agreed, adding that they needed to make the pavement management plan their own, providing their own input. Mr. Spurgeon saw the report as a valuable educational tool for connecting with voters, to help them understand the plan and the City's implementation of it, eventually.

C. 16-1437

Presentation regarding the Road Closure for Fort Worth Street between 1st Street and Main Street in Association with Streetscapes Phase IV Public Improvements Project

Alex Mills, Director of Engineering/Construction, said he was there to report on the road closure in connection with Phase IV of the Downtown Streetscapes Project. His team would be working not only on widening of the curb return to facilitate turns eastbound on Fort Worth Street, but also on constructing a concrete crosswalk and brick paver pattern across the area. From a safety standpoint, they felt that closure of the street was warranted. A week-long closure was approved but they would be able to open the road by day's end on Saturday, if all went according to plan. Mr. Mills stated that local businesses had been notified.

Mayor Thurmond commended Mr. Mills, Assistant City Manager of Operations Ken Schwab, and their crews on the expeditious handling of the Aspen Street project.

D. 16-1427

Presentation regarding the Broken Arrow Police Department Pedestrian and Motorists Safety Campaign

Police Chief David Boggs said that he and the City Manager thought it important to update the Council on the Department's pedestrian and motor vehicle safety efforts, especially in light of three serious collisions involving children after the start of the school year. He expressed appreciation for the traffic officers, school resource officers, and police officers who came up with a unique plan to address issues relating of pedestrian and bicycle safety. The plan was threefold. The first aspect of the plan was a public information campaign involving press releases and Facebook outreach. The second aspect consisted of ongoing

media development efforts in partnership with the public schools and their closed circuit television capabilities to get their message out. The third part entailed enforcing laws pertaining to vehicles, bikes and pedestrians. All were committed to doing whatever it took to ensure the safety of children and young people in the future.

8. Citizens' Opportunity to Address the Council on General Topics Related to City Business or Services

Mayor Thurmond stated that no citizens had signed up to speak.

9. General Council Business

A. 16-1412

Consideration, discussion, and possible approval and authorization to execute an agreement between Blue Cross and Blue Shield of Oklahoma and the City of Broken Arrow to allow the City to become an in-network provider

Ms. Childs stated that the item was indicative of a unique situation. She reported that the City was losing out on approximately \$50,000 worth of revenues from Emergency Medical Services. In the past, the Legal Department had not recommended execution of an agreement with Blue Cross and Blue Shield and the company paid its members directly. It presented a challenge for the City to go back and collect ambulance fees from individuals when they already had already been reimbursed by the insurer. Many other providers remitted the fee directly to the City. They were obliged to review Blue Cross's standard agreement again though usually, the Legal Department didn't recommend execution of agreements that included binding arbitration. Also, the City did not maintain any accreditation with the Joint Commission and would not qualify if it applied for accreditation. Additionally, the Legal team discussed the medical release for insurance billing purposes and concluded that it would not likely be an issue, though they wished to bring it to the Council's attention. Another issue that gave them pause was that they were required to maintain professional liability insurance throughout the agreement, requiring them to insure beyond the statutory limits of governmental Tort Claims Act, which virtually, presented them with an impossibility. Ms. Childs stated that she supposed it was possible that they could make an attempt to find insurance, but in doing so they would waive the limitations of the governmental Tort Claims Act. It was important to note that the risk under the items she had mentioned was very low and in the event that they ended up in litigation with Blue Cross, she believed that there were a number of defenses that they could assert. From the staff's perspective, it was recommended that Council approve the agreement and authorize its execution.

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

Move to approve the Agreement with Blue Cross and Blue Shield of Oklahoma and authorize its execution

The motion carried by the following vote:

Aye: 5 -

Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

B. 16-1425

Consideration, discussion, and possible approval and authorization to execute a Second Amended Interlocal Agreement by and between the Cities of Bixby, Claremore, Collinsville, Glenpool, Jenks, Owasso, Sand Springs, Sapulpa, Skiatook, Tulsa, Broken Arrow and Rogers County and Indian Nations Council of Governments' (INCOG) regarding a Regional 911 Board for the purpose of shared management of 911 services

Chief Boggs stated that the matter under consideration had been in process for two years. The City had been considering moving its 911 service provider from Windstream to AT&T and had been working together with AT&T and INCOG for the past six months to find the best technological solution for citizens. As a first step, INCOG allowed the City to sit on the Regional 911 Board, giving them a vote at the table, as it were. Chief Boggs went on to explain that at present, they had a fiber network with Windstream, relating to 911. AT&T would give them a shared redundancy that they didn't have. The core network that INCOG was on was shared by multiple municipalities so that if any one piece went down, other fail safes came into place, which was important for a city the size of Broken Arrow. Another important gain would be the provision of a cellular back-up, which they did not possess at present. Chief Boggs informed the Council that they were also looking at additional cellular solutions on a city level, that they would be able to partner with if they moved forward with AT&T. Should the Council give its approval, the financial ramifications would be presented to the Council for approval. Chief Boggs confirmed to Mayor Thurmond that he would be sitting on the Board. Mr. Spurgeon applauded Chief Boggs' efforts in making the agreement possible.

MOTION: A motion was made by Mike Lester, seconded by Richard Carter.

Move to approve Resolution No. 958 and authorize its execution

The motion carried by the following vote:

Aye: 5 -

Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

**The motion made on item 9B is incorrect, it was inadvertently approved as Resolution 958. Item 9B will be ratified as a consent item on the 12/20/16 City Council Meeting Consent Agenda. **

Consideration, discussion, and possible approval and authorization to execute Resolution No. 958, a Resolution approving an amendment to the Fiscal Year 2016-2017 Amended Manual of Fees; establishing fees and costs charged by the City of Broken Arrow; authorizing periodic adjustment by the City Manager; and providing an effective date of December 6, 2016

Mr. Spurgeon read a statement that he had distributed to the Council, which served to highlight the importance of the item. The statement read, in part, that the City Council had before it for consideration legislation approving new usage rates for water, sewer and storm water utilities, which would be outlined in the Manual of Fees, if approved. It was their responsibility to provide safe, reliable, competitively-priced services to current and future customers. The City's infrastructure holdings, including a water production plant worth over \$60 million, 2 wastewater treatment facilities, 6 water storage facilities, 29 sewer lift stations, 4 booster pump stations, and nearly 1500 miles of both water and sanitary sewer lines, were detailed. The City was also responsible for managing storm water conveyance systems throughout the community. The proposed rate increases were projected to enable collection of sufficient revenue for three things: maintenance of operations of each of the three utilities over the next five years; generation of sufficient revenue for debt service payments of proposed capital projects, as previously presented to the Council; and implementation of a multi-year initiative to keep the Municipal Authority in sustainable financial position by developing a reserve policy ensuring sufficient revenues for unforeseen circumstances. Earlier in the year staff had completed the multi-year process of reviewing and quantifying day-to-day financial operational needs in the five- to seven-year Capital Improvement program for the Utility Department. The Council approved the hiring of the engineering consulting firm of Black & Veatch which, together with City staff, determined what Broken Arrow's rates/fees should be calculated with the aim of funding necessary utility system improvements and additional staff needed to maintain the systems. A total of \$140 million worth of necessary improvements were identified, including \$26 million for water, \$102 million for wastewater and sanitary sewer, and \$12 million for storm water. Aging existing system components, system expansion keeping up with population increase and the more stringent regulations that inevitably followed technological advances, were major factors that came into play. His assessment was that proposed improvements needed to be implemented in aggressive manner in order that the community not fall further behind the curve. It was recommended that the City move forward now, otherwise project costs would only increase and they would face costly repairs for increased breakdowns in the system. The proposed rate model called for the City to pay for the coming seven years of operations and \$90 million of the \$140 million needed in capital funds for the utility system improvements, through rates charged to customers. To keep utility rates affordable and stable, City officials would be asking voters to approve General Obligation Bonds in late 2017, or early 2018, to generate the remaining \$50 million needed to complete the Capital Improvement Program. The Bond option to be considered had definite financial advantages for customers/property owners over increasing utility rates dramatically at the present time.

Mr. Spurgeon went on to read that a typical household of three used about 7,000 gallons of water and 5,000 gallons sewer per month. Under the proposed rates their water bill would increase by approximately \$3.36 per month, sewer bills by approximately \$2.75 per month, and the storm water fee should see an increase of about 75 cents per equivalent service unit. The plan called for a rate increase once a year for the next five years to ensure sufficient revenues. He noted that the good news was that based upon current revenue projections, the expected rate increases in subsequent years should be less. He believed that the rate increases before the Council were reasonable requests on the part of the administration to take care of the system on both the operational and capital improvement fronts. Mr. Spurgeon added that they had undertaken an aggressive information-transparency campaign aimed at making sure that citizens could understand the situation, and that campaign was ongoing. Customers could read the complete Capital Improvement Plan at www.brokenarrowok.gov/utilitycip. They could also consult a video highlighting some of the system's challenges, as well as a question-and-answer video at www.brokenarrowok.gov/waterbill. Mr. Spurgeon noted that staff would be taking comments from that night, along with the presentation by Mr. Schwab, and including them on the website, as well.

Mr. Schwab stated that one of the biggest issues in connection with rates were the capital improvements designed to repair, extend, maintain, and replace parts of the system, owing to increased demand, aging, and emerging technologies, as mentioned by Mr. Spurgeon. Staff from the Utilities, Engineering/Construction, and Finance Departments, along with the City Manager's Office, came together work to leveling off the first years by pulling initial increases down, while increasing rates for the subsequent years of FY 2019 through FY 2021. Mr. Schwab displayed a bar graph showing their success at leveling off the proposed rate increases, which indicated increases dropping off slightly by FY 2020, or years four and five. Mr. Schwab showed two slides listing proposed capital improvements in the first two years for the respective utility services and he pointed out the big ticket items. With reference to water system improvements these items included sludge removal, copper sulfate feed addition against algae, and plate settler extension. Mr. Schwab pointed out that use of the OOWA\Grand River Line was on the agenda that day at the Municipal Authority (BAMA) meeting, noting that there was a roughly \$2 million place holder at the plant pending their

determination on whether to bring in raw water or treated water. Other categories of items fell under the headings of modifications to water master connections, water distribution projects, and water storage system projects. Mr. Schwab displayed a slide outlining wastewater projects in the first two years, categorized by Haikey Creek Plant projects, involving the plant they shared with Tulsa under the Regional Metropolitan Utility Authority (RMUA), Haikey Creek Basin projects (BAMA), and Lynn Lane Plant and Basin projects (BAMA).

Referring to his last two slides, Mr. Schwab said he wished to talk about rates in general. He compared the water and sewer rates highlighted in yellow on the chart in the first slide. The base rate for water would increase from \$7.70 in 2016 to \$8.40 in 2017, with a corresponding increase in service rate from \$4.00 in 2016 to \$4.38 in 2017. Similarly, with regard to sewer service, there would be an increase in base rate from \$7.50 in 2016 to \$8.20 in 2017, while the service rate would increase from \$2.67 to \$3.08 for those years. In addition to illustrating the five-year plan rate increases in dollars and cents, the chart specified incremental and cumulative increases for both water and sewer for each of the five years in terms of cost to the customer and percentage of increase they would experience. The initial percentage increase in 2017 would be 9.5% and 15% for water and sewer, respectively, however, percentage increases would drop down considerably over the remaining years, decreasing further each year. The final slide shown was a chart comparing typical utility bills in Tulsa and Broken Arrow per 7,000 gallons, the average water usage for a family of three, and 5,000 gallons sewer usage. Mr. Schwab commented that Tulsa would have to increase its rates, as well, at some point. Service charges for water, sewer, storm water, trash, EMS and street lights were itemized. While Broken Arrow's water rates and charges were higher, its rate and charges for sewer were a good deal lower than Tulsa's. Also, the total customer charges for Broken Arrow were \$90.38, as compared to \$98.22 for Tulsa.

Mr. Schwab concluded that taking into account all their findings and after consulting with staff and Mr. Spurgeon, he believed that the amended Manual of Fees provided the best opportunity as a basis for implementing the capital improvements.

In reply to question posed by Councilman Eudey on whether there was a similar contribution by the partner city with which they shared the Haikey Creek Plant. Mr. Schwab replied that there was. Broken Arrow's contribution totaled about \$49 million and Tulsa's contribution was the same. Councilman Parks also wanted to make the public aware that this topic was discussed on various occasions, with many questions, so that is why there aren't many questions from the council tonight.

Rachel Swekosky, 501 South 27th Street, said she was concerned about the effects that a steady increase in rates over the course of the coming five years would have on elderly people on a small, fixed income. She wondered how citizens in such circumstances could afford the proposed increases.

Councilman Eudey answered that she was describing a perennial problem that he imagined every governmental body struggled with. How could they provide the services they were obligated to provide and citizens required them to provide at the least expense and burden to residents as possible? He didn't know that he had a good answer, in all frankness. However, the capital improvements had to be done or the City would start running afoul of government agencies like Oklahoma Department of Environmental Quality (ODEQ). In the end, they were faced with a very difficult decision they didn't relish making. Councilman Lester echoed his sentiments commenting that it was not without compassion that they made such decisions but they were making them for 108,000 people. Hopefully, neighbors and organizations could assist those in need but the City could not.

Councilman Eudey added that he had received several phone calls on the matter that day, and he thought the question Ms. Swekosky posed was a fair one. As he understood, however, failing to implement the necessary capital improvements could lead to serious difficulties in a very short period of time. Mr. Spurgeon stated that Councilman Eudey was correct in his understanding. As he observed earlier, the improvements were needed to maintain and upgrade the systems to meet the demands of current customers and also, to make sure they had the capacity to grow. He explained that if they were unable to meet demands and the community could not grow, the burden on the same number of customers, i.e. the burden on existing customers, would become greater. The goal of the City's economic development initiatives and activities was to try to bring in new businesses and customers, with the result of a rise in property values and more customers absorbing utility costs. Not dealing with present problems posed a threat to the community financially and legally, and constituted a failure in stewardship on the governing body's part and surrender to a vicious cycle. He was well aware that they needed to make sure that rates charged were only what they really needed and the reason they needed the five-year model was because they borrowed the money for capital improvements, they had to pledge an asset, and they accomplished that through the rates.

Mayor Thurmond pointed out also, that if the City received a fine and had to make emergency repairs, they would have to pass that on to the rate paying consumers anyway. Broken Arrow was a very efficient city, which was reflected in its rates being lower than almost any other community in the area. Moreover, other towns in the metro area were faced with the same

dilemma of having to institute rate increases. Councilman Lester was in agreement, adding that the increase in rates affected him, the office building he owned and affected everyone. They themselves were impacted by the decisions they made but it was their responsibility to make such decisions. Mr. Spurgeon said that it was a point well taken because they had a half billion-dollar investment and most of that investment was made by someone else and was given to the City, with the City accepting responsibility for it and having to maintain it. Councilman Lester observed that the City had done fairly well with respect to roads but not so well with respect to water and sewer services. Mayor Thurmond added that the reason they had not invested as much in water and sewer was because they had been trying to keep the rates down. Councilman Eudey concurred, commenting that emergency repairs always ended up costing more than preventative measures. Mr. Spurgeon stated that part of their strategy in adopting rate increases was to generate adequate reserves for unforeseen problems, which were bound to come up with a backlog of improvements to address.

Vice-Mayor Carter commented that he was one among the retired and on a fixed income and didn't like the increases either, however, the need for the rate increases was undeniable. He pointed out that in neglecting their duty to maintain and improve systems, they would not only be facing expensive catastrophes, but suspensions of service, as well. Planning ahead as they were doing was very wise, and they were proceeding as inexpensively as possible, doing the right thing.

MOTION: A motion was made by Richard Carter, seconded by Mike Lester.

Move to approve Resolution No. 958 and authorize its execution

The motion carried by the following vote:

Aye: 5 -

Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

D. 16-1426

Consideration, discussion, and possible approval and authorization to execute Resolution No. 963, a Resolution authorizing the City Attorney to agree to enter into the Final Entry of Judgment without admitting liability in the matter of David and Christina Vranesevich and directing the City Attorney to prepare and file the necessary documents to effectuate settlement including a Journal Entry incorporating the resolution for the Court's approval pursuant to 51 O.S. § 158

Ms. Childs stated that she had placed the item on for Executive Session, should the Council desire to discuss the matter. She had asked the attorney in the Legal Department handling the tort claim to go ahead and draft it as a resolution for their consideration. Ms. Childs went on to explain that it was one of those tort claims or causes of action where there was admitted liability on the City's part. The driver's water bottle fell and became wedged underneath the brake pedal, which precipitated a collision, for which he was cited by the Police Department. The individuals involved were injured, the male alone incurring \$9,200 in medical bills. Doctors determined that he would probably need an additional \$9,000 worth of treatment and medical care. Also, there were lost wages in the amount of \$1,750. The female passenger incurred \$4,548.68 in medical bills and an anticipated an additional \$9,500 worth of further medical treatment. Ms. Childs reported that the City had already paid the property damages in a timely manner to avoid attorney's fees case, since it admitted liability. Mr. Littlefield, an attorney in her office, was able to negotiate a settlement in the amount of \$27,500 for Mr. Vranesevich and \$16,500 for his spouse. She and her colleagues in the Legal Department deemed it a reasonable sum. However, she would provide the opportunity to discuss the matter in Executive Session, otherwise they could elect to move forward with a resolution of the claim. They would have to file a lawsuit, of course, because of the amounts involved, but was recommended, if Council were ready to move forward, that it approve Resolution No. 963.

MOTION: A motion was made by Johnnie Parks, seconded by Richard Carter.

Move to approve Resolution No. 963 and authorize its execution

The motion carried by the following vote:

Aye: 5 -

Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

E. 16-1431

Consideration, discussion, and possible approval and authorization to execute Resolution No. 964, a Resolution authorizing the City Attorney to disclaim any interest in property located near 12631 South Garnett Road, Broken Arrow, Oklahoma, 74011, in a condemnation action entitled City of Tulsa, Oklahoma v. Eversole et al, filed by the City of Tulsa in the District Court in and for Tulsa County, State of Oklahoma, Case No. CJ-2016-4006 to acquire a sanitary sewer easement and temporary construction easement for the construction of the RMUA-ES-2009-10 C3 Force Main Improvements Haikey Creek Lift Station Rehabilitation Project

Ms. Childs noted that it was interesting to be sued by the City of Tulsa. Essentially, they needed to move forward with condemnation, and because Broken Arrow's came up on the title survey they were required to notify Broken Arrow. It was recommended that Council give the Legal Department the opportunity to disclaim any interest in that particular condemnation and they confirmed that Broken Arrow did not have any utilities in the area. It was recommended that Council approve the Resolution and authorize its execution.

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

Move to approve Resolution No. 964 and authorize its execution

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

F. 16-1439

Consideration, discussion, and possible approval of Resolution No. 965, a Resolution authorizing the City Attorney to enter into a Final Journal Entry of Judgment in the matter of the City of Broken Arrow v. The Board of County Commissioners of Tulsa County, the City of Broken Arrow, Public Service Company of Oklahoma, Oklahoma Natural Gas Company, A Division of OneGas, Inc., Southwestern Bell Telephone Company, and Coxcom, L.L.C., in Tulsa County District Court, Case Number: CV-2016-01527, authorizing Foreclosure of a Utility Easement generally located one quarter mile east of Elm Place and north of Albany Street

Ms. Childs stated that there was a utility easement at the site of the Stoney Creek Hotel and Conference Center, running right underneath the building, which they had concluded was not needed. They took an opportunity to recommend that the Council close the easement. The title company for Stoney Creek requested that they go ahead and proceed with the foreclosure action. Since the City of Broken Arrow owned the property, they accomplished that pursuant to previous resolution. The resolution before them would enable the Legal Department to complete the final steps, she had already visited with the judge about this as well. They believed most of the utility companies would move ahead and disclaim it. Therefore, Ms. Childs requested that the Council approve Resolution No. 965 and authorize its execution.

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

Move to approve Resolution No. 965 and authorize its execution

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

10. Preview Ordinances

A. 16-1404

Consideration, discussion, and possible preview of an Ordinance for the voluntary annexation of property located at 12830 South 189th East Avenue, Broken Arrow, Oklahoma 74011, containing 27.97 acres and legally described as a tract of land in the South Half of the Southeast Quarter (S/2 SE/4) of Section One (1), Township Seventeen (17) North, Range Fourteen (14) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma

Declaring that he had a conflict, Mayor Thurmond recused himself and left the room at approximately 8:09 p.m.

Vice-Mayor Carter remarked that the item was the subject of a public hearing that took place earlier in the meeting. Ms. Childs stated that having been informed by Mr. Autry on the correct address at the public hearing, they would go back to correct it. Significantly however, the legal description on the map accompanying the notice really brought it into compliance with the statute, she believed. It was requested that Council preview the Ordinance and recommend its adoption at the next meeting.

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

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

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

Mayor Thurmond returned to the room at approximately 8:10 p.m.

B. 16-1406

Consideration, discussion, and possible preview of an Ordinance opening an alley right-of-way, located on Lots 1 through 24, Block Forty (40), Original Town of Broken Arrow, an addition to the City of Broken Arrow, Tulsa County, Oklahoma, according to the recorded Plat thereof; repealing all ordinances to the contrary including Ordinance No. 2932; and declaring an emergency

Ms. Childs said that the Ordinance pertained to 16 units coming in to be identified as the Oaks off Main. The development would be in the brownstone style, with single-family, attached housing units. She recalled that the alley right-of-way was previously closed by Ordinance No. 2932, and as they had advanced with development, Development Services was recommending that the alley be opened to make for a wonderful new development. It was requested that 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

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

C. 16-1430

Consideration, discussion, and possible preview of an Ordinance closing a utility easement on a part of Lot 3, Block 4, Bristol Ponds, an addition to the City of Broken Arrow, being a part of the southeast quarter (SE/4) of Section Fifteen (15), Township

Eighteen (18) North, Range Fourteen (14) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma; repealing all ordinances to the contrary; and declaring an emergency

Ms. Childs reported that Atlas Land Office had requested closure of a five foot, unused easement on the east side of the property in question. Staff had reviewed it, as had the utility companies, and all were in agreement as to the closure. It was requested that 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

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

D. 16-1416 Consideration, discussion, and possible preview of an Ordinance of the City Council of the City of Broken Arrow amending Chapter 2, Article IX, Section 2-151--Attendance; repealing all ordinances to the contrary; and declaring an emergency

Ms. Childs reported that at the request of the new Human Resources Director, Jannette McCormick, they had an opportunity to review the ordinance before them for consideration. As it stood at present, if a holiday fell on Saturday, then it was celebrated on Friday and if a holiday fell on Sunday, it was celebrated on Monday. In light of how the holidays fell that year, they took the opportunity to come up with something unique. It was decided to give the City Manager some leeway so that they wouldn't have to change the Ordinance. They were recommending that unless otherwise directed by the City Manager, they should proceed in the old manner, as described. Nevertheless, because of the days Christmas Eve and Christmas fell on that year, it was being considered that staff be given the Monday and Tuesday following both holidays. Mr. Spurgeon had in mind that City Hall would be closed on Friday and Monday, with respect to both holidays. She added that they had also had a chance to clean up some of the verbiage in the Ordinance, as well. It was requested that Council preview the Ordinance and set it for adoption.

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

Move to preview the Ordinance and set it for adoption

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

E. 16-1401 Consideration, discussion, and possible preview of an Ordinance amending Chapter 24, Article 1, Section 24-29-Annual water rate increase evaluation required; repealing all ordinances to the contrary; and declaring an emergency

Ms. Childs stated that Section 24-29 of the Code currently provided that every year during the month of April the Utilities Director evaluated the cost of providing water services. She and her Legal team thought that it would be a good idea to eliminate the April evaluation because in many instances the beginning of preparations for the new budget took place in the first three months of the year. They were requesting that the Ordinance be revised to allow for consideration on an annual basis, which was already the case. It was requested that Council preview the Ordinance and set it for adoption.

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

Move to preview the Ordinance and set it for adoption

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

F. 16-1402 Consideration, discussion, and possible preview of an Ordinance amending Chapter 24, Article 1, Section 24-114-Annual sewer rate increase evaluation required; repealing all ordinances to the contrary; and declaring an emergency

Ms. Childs said that the Ordinance addressed sanitary sewer service. It would also eliminate the requirement to review each year in the month of April and would make it part of the budget process, as with the previous Ordinance previewed. It was requested that Council preview the Ordinance and set it for adoption.

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

Move to preview the Ordinance and set it for adoption

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

G. 16-1422 Consideration, discussion, and possible preview of an Ordinance amending Section 2.1, Table 3.1-1, Section 3.2.A.2, Section 3.2.B.1, Section 3.2.B.2, Section 3.2.B.5, Section 3.3.C.2.b, Table 4.1-2, Section 4.1.E, and Section 5.9.J.4 of the Zoning Ordinance; along with modifications to Table 4.1, Section 4.1.2, and Section 4.1.3 of the Comprehensive Plan; specifically, adding a new Single-family Residential Zoning District, RS-4, Single-family Residential-4; repealing all Ordinances to the contrary and declaring an emergency

Ms. Childs recalled that the Ordinance had been before the Council on several occasions

previously, specifying that it was set for discussion twice and was also brought before the Planning Commission. The proposal would create a new zoning district, RS-4, for single-family detached homes. The factsheet went into some detail on what that would entail and it would be accomplished through an ordinance. It was requested that Council preview the Ordinance and set it for adoption at the next meeting.

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

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

The motion carried by the following vote:

Aye: 5 -

Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

11. Ordinances

A. 16-1429

Consideration, discussion, and possible adoption of Ordinance No. 3459, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1937, granting CG and FD zoning classifications be placed upon the tract, generally located on the northeast corner of Dearborn Street and 23rd Street, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency

Ms. Childs pointed out that the Ordinance under consideration was not previewed at the previous meeting and represented a change in the zoning granting CG and FD zoning classification pursuant to BAZ 1937. It was required in order to change the Code and the maps also. It was requested that Council adopt the Ordinance and approve the emergency clause.

MOTION: A motion was made by Mike Lester, seconded by Richard Carter.

Move to adopt Ordinance Number 3459

The motion carried by the following vote:

Aye: 5 -

Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

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

Move to approve the emergency clause for Ordinance Number 3459

The motion carried by the following vote:

Aye: 5 -

Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

12. Remarks and Inquiries by Governing Body Members

Vice-Mayor Carter stated that he was really pleased to see the way in which they were planning for maintenance of Broken Arrow's infrastructure, with regard to both streets and the water and sewer systems. It beat the good old days when all they did was respond to crisis and engage in damage control. Their new approach was a better way to go about it.

Councilman Parks commented that when you had to go out and make a major repair, then when it had to be replaced, it was ultimately money that had been wasted. He appreciated the effort to spend the City's dollars where they could be used for a long time, instead of for just a couple of years. Mayor Thurmond agreed, saying that he commended the staff for everything they had done on it. He pointed out that with the new technology available, with the new material pipes were made from, for example, they were getting a lot more life out of them than what had years ago.

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

Mr. Spurgeon thanked the Mayor and City Council for their kind remarks, adding that a finer leadership team in the State, heading the various governmental departments, could not be found. They worked hard for the Mayor and Council, as well as for the citizens, and he was very proud of them, and that included the City Attorney, who played a prominent role in many areas of City business as her in reporting at that evening's meeting testified to. He thanked Steve Arant and his team with regard to the PCI report.

He, several Council members and the Mayor had attended the National League of Cities (NLC) conference in November and a couple of the Council members were able to get on subcommittees, as they had set out to do. Also, Mayor Thurmond was re-elected to the full board for another year. Mr. Spurgeon observed that circulating among the attendees he noted that people knew Broken Arrow's legislators and it was a great thing that they were having some effect on public policy around the nation and on a federal level, perhaps. He thanked those who had taken the time to attend and appreciated the opportunity to go, himself.

Mr. Spurgeon reported that the previous Thursday, through to Director of General Services Lee Zirk's efforts, trash was now being taken to Covanta, the waste to energy plant, with the exception of landfill items. Also, the Citizen's Recycling Committee held their first meeting a week before. It was not very often that one had the opportunity to achieve something substantive in public policy and having the opportunity to do so, as with the trash and recycling program, was a positive thing. The City was displaying tremendous leadership and foresight in going forward with the plan and he thanked the Council for

their great choices of who would serve as members of the Recycling Committee, adding that they would definitely be in a position to bring some recommendations to the Council by late Spring.

Mr. Spurgeon went on to report that the City and Broken Arrow Chamber of Commerce called a press conference on November 21st, inviting other cities, school districts, and Chambers of Commerce, because they believed the City of Broken Arrow should take the lead in helping educators all across the State to get pay raise. He commented that they had dodged the proverbial bullet when Proposition No. 779 did not pass, which would likely have had unintended consequences for cities. He explained that there was Black Friday, Small Saturday, referring to small business vendors, and then Cyber Monday, with the latter collecting \$20+ billion in sales yearly, and very few municipalities across the country getting very little of that. They'd had conversations with Representative Rogers who, in his association with the Educational Committee, had influence in spreading the message of the importance of cities all around the State addressing the issue. Teachers represented a workforce whose output was education of children, and so making sure that they were compensated was extremely important and they would continue to press for that in the State Legislature in the coming year.

Mr. Spurgeon announced that on Wednesday, December 14th the kick-off public information and public input meeting on the subject of an overlay in Downtown for residential. Letters were sent out to everyone within a square mile of the area and they planned to send out a robocall inviting citizens to the meeting. Farhad Daroga would be heading the meeting.

Finally, Mr. Spurgeon congratulated the recipients of Broken Arrow Fraternal Order of Police (FOP) awards. The FOP had held its annual banquet the previous Saturday. A number of individuals were recognized for their heroism and their pro-active service, among them some who had helped solve cases by exposing deception. It was a grand occasion celebrating the great job that their police officers did and Mr. Spurgeon thanked the FOP and Police Chief Boggs for inviting him.

At approximately 8:24 p.m. Mayor Thurmond entertained a motion to recess in order to enter into the Broken Arrow Municipal Authority and the Broken Arrow Economic Development Authority meetings, prior to the Executive Session.

MOTION: A motion was made by Mike Lester, seconded by Scott Eudey.
Move to recess in order to enter into the Broken Arrow Municipal Authority and Broken Arrow Economic Development Authority meetings

Aye: 5 - The motion carried by the following vote:
Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

Mayor Thurmond reconvened the regular Council meeting at approximately 8:30 p.m. and entertained a motion for a brief recess prior to entering into Executive Session.

MOTION: A motion was made by Mike Lester, seconded by Scott Eudey.
Move to recess prior to entering into the Executive Session

Aye: 5 - The motion carried by the following vote:
Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

Mayor Thurmond reconvened the regular Council meeting at approximately 8:34 p.m. and asked for a motion to clear the room and enter into Executive Session.

MOTION: A motion was made by Scott Eudey, seconded by Richard Carter.
Move to enter into the Executive Session

Aye: 5 - The motion carried by the following vote:
Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

14. Executive Session

Executive Session for the purpose of confidential communications between the City Council, the City Manager, and the City Attorney and discussion of possible action in open session involving the following:

1. Discussion relating to negotiations for a collective bargaining agreement between the City and the International Association of Fire Fighters, Local 2551, and pending grievances and taking appropriate action in open session under 25 O.S. § 307(B)(2);
2. The tort claim of Juan Rodriguez, including potential resolution, potential settlement, acceptance or denial of the claim and taking appropriate action in open session under 25 O.S. § 307(B)(4);
3. Discussion of a potential claim and potential litigation relating to a water line

running through an Indian Allotment owned by Marcella Giles and Wynema Capps and taking appropriate action in open session under 25 O.S. § 307(B)(4);

- 4. Discussion of claims and potential litigation and potential authorization to file suit regarding public improvements and infrastructure, specifically the retaining wall on real property located on the north side of Tiger Hill (on the southwest corner of Lynn Lane and Kenosha Street), and taking appropriate action, including authorization to file suit in open session under 25 O.S. § 307(B)(4).**

At approximately 9:18 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 Richard Carter, seconded by Mike Lester.

Move to authorize the City Manager to proceed as directed with regard to negotiations with the IAFF and the pending arbitration

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

MOTION: A motion was made by Richard Carter, seconded by Mike Lester.

Move to deny the claim filed by Juan Rodriguez

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

MOTION: A motion was made by Richard Carter, seconded by Mike Lester.

Move to deny the request of Marcella Giles to provide connections to the City's sanitary sewer and water systems and to direct staff to evaluate the additional request to remove the water line

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

MOTION: A motion was made by Richard Carter, seconded by Mike Lester.

Move to direct the City Attorney to prepare a Resolution for consideration at the next City Council meeting authorizing litigation against proper parties

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

MOTION: A motion was made by Richard Carter, seconded by Mike Lester.

Move to find that the pending claims were necessary to process pending claims in the public interest

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

15. Adjournment

The meeting adjourned at approximately 9:21 p.m.

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

Move to adjourn

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

Attest:

Mayor

City Clerk