



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, November 20, 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 Scott Keele.

3. Roll Call

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

4. Pledge of Allegiance to the Flag

Council Member Mike Lester led the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

Mayor Thurmond stated Item M was to be tabled until the next City Council meeting. He asked if there were any other 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 excluding Item M

The motion carried by the following vote:

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

- A. 18-1132 Approval of City Council Meeting Minutes of November 5, 2018**
- B. 18-1331 Ratification of Workers' Compensation Settlement for Charles A. Misener, former Fire Department employee**
- C. 18-1296 Approval of the nomination and appointment of Dana Ludwig to the Broken Arrow Convention and Visitors' Bureau (CVB) Board with a term expiring September 30, 2020**
- D. 18-1266 Approval of and authorization for acceptance of a \$25,263.98 grant from the Federal Emergency Management Agency Region 6**
- E. 18-1303 Acceptance of a donation in the amount of \$4,000 from Saint Francis Hospital South for the purpose of renewing the PulsePoint mobile application service**
- F. 18-1336 Approval of and authorization to execute Resolution No. 1165, a Resolution authorizing the acceptance of a General Warranty Deed for Parcel 4, which consists of 0.15 acres of Permanent Right-of-Way and 0.01 acres of Temporary Construction Easement for Florence Street improvements, Olive to Aspen, located in the Southwest Quarter of Section 28, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from Hugh, Phillip, Steven, and Gary McElroy, and Patricia Pound and authorization of payment in the amount of \$9,700.00 for the Florence Street Improvements: Olive to Aspen, (Project No. ST1410)**
- G. 18-1343 Approval of and authorization to execute a Professional Consultant Agreement with KKT Architects, Inc. for Broken Arrow City Council Chambers Renovations**
- H. 18-1345 Approval of and authorization to execute Amendment No. 3 to Professional Consultant Agreement with Holloway, Updike and Bellen, Inc. (HUB) for revisions to design of Albany Street Improvements from 9th Street to 23rd Street (Project No. ST1411)**
- I. 18-1344 Approval of and authorization to execute the Amendment No. 1 to Agreement for Professional Consultant Services with Selser Schaefer Architects for the Public Safety Complex Renovation & Forensic Lab (Project No. 181707)**
- J. 18-1337 Ratification of the motorcycle safety training and awareness grant application and approval of and authorization to execute the proposed agreement for Fiscal year 2018-2019 with the Oklahoma Highway Safety Office**
- K. 18-1346 Ratification of the high visibility enforcement grant application and approval of and authorization to execute the proposed agreement for Fiscal year 2018-2019 with the Oklahoma Highway Safety Office**

- L. 18-1305 Approval of and authorization to execute a lease agreement with Sharon K. Petrik and the City of Broken Arrow for office space lease for the Broken Arrow Convention and Visitors' Bureau located at 111 East Commercial Street
- M. 18-1248 Approval of and authorization to execute a Professional Services Contract with ArtsOK The Regional Arts Alliance of Broken Arrow for the 2018-2019 Spotlight Series in the amount of \$5,000.00 per show for a period of three years, subject to annual appropriation
- N. 18-1339 Notification of Change Orders or Work Orders with a value of less than \$25,000 on Public Contracts
- O. 18-1334 Acceptance of Temporary Construction Easements consisting of 0.09 acres and 0.18 acres from Terrie Berry, on property located at 12430 S 185th E Ave located in part of the Northwest Quarter of Section 1, Township 17 North, Range 14 East, Tulsa County, State of Oklahoma, and authorization for payment in the amount of \$360.00 for the County Line Trunk Sewer Replacement, Parcel 5.1, 5.2 (Project No. S.1609)
- P. 18-1326 Acceptance of Temporary Construction Easements consisting of 0.089 acres and 0.16 acres from Kenneth C and Brenda K Nickels, on property located at 12422 S 185th E Ave located in part of the Northwest Quarter of Section 1, Township 17 North, Range 14 East, Tulsa County, State of Oklahoma, and authorization for payment in the amount of \$320.00 for the County Line Trunk Sewer Replacement, Parcel 8.1, 8.2 (Project No. S.1609)
- Q. 18-1332 Acceptance of Temporary Construction Easements consisting of 0.53 acres and 2.35 acres from Tucson Village LLC, an Oklahoma limited liability company, on property located at 12102 South 193rd East Avenue located in part of the Northeast Quarter of Section 1, Township 17 North, Range 14 East, Tulsa County, State of Oklahoma, and authorization for payment in the amount of \$3,760.00 for the County Line Trunk Sewer Replacement, Parcel 10.1, 10.2 (Project No. S.1609)
- R. 18-1333 Acceptance of a Temporary Construction Easement from Silverstar Investments, LLC, an Oklahoma limited liability company and Jerry and Kimberly Wilkins, the owners, on property located at 8451 S 9th Street, a tract of land in part of the Northwest Quarter of Section 12, Township 17 North, Range 14 East, Tulsa County, State of Oklahoma for the County Line Trunk Sewer Replacement, Parcel 5.A (Project No. S.1609A)
- S. 18-1335 Approval of the conveyance of an Utility Easement consisting of 0.21 acres and 0.33 acres of Temporary Construction Easement from the City of Broken Arrow to the public on property located at 5420 S 23rd Street, a tract of land in part of the Northeast Quarter of Section 36, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma for the County Line Trunk Sewer Replacement, Parcel 14A.0, 14A.1 (Project No. S.1609)
- T. 18-1338 Acceptance of a Utility Easement consisting of 0.15 acres and 0.08 acres of Temporary Construction Easement from the Bryan S. Payne Trust, on property located at 19208 E 111th St located in part of the Northeast Quarter of Section 36, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, and authorization for payment in the amount of \$8,610.00 for the County Line Trunk Sewer Replacement, Parcel 18.0, 18.1 (Project No. S.1609)
- U. 18-1228 Approval of PT18-107, Conditional Final Plat, Freedom Wash, a replat of Lot 5 and Lot 7, Block 1 of Kenwood Acres (Plat #1417), 2.76 acres, 3 Lots, R-1 to PUD 172/RD and CH, north of Kenosha Street, one-quarter mile west of 9th Street, between 4th Street and 5th Street
- V. 18-67 Approval of the Broken Arrow City Council Claims List for November 20, 2018

6. Consideration of Items Removed from Consent Agenda

Item M was removed from the Consent Agenda.

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

Move to table Item M

The motion carried by the following vote:

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

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

There were no Public Hearings, Appeals, Presentations, Recognitions or Awards.

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)

No Citizens wished to address the Council on General Topics Related to City Business or Services.

9. General Council Business

A. 18-1288 **Consideration, discussion, and possible approval of BAZ- 2014, Wall/Toomey Properties, 12.99 acres, A-1 to RS-2, north and east of the northeast corner of Albany Street and 51st Street**

Development Services Director, Michael Skates, stated BAZ-2014 was a request to change the zoning designation on 12.99 acres from A-1 to RS-2, single family residential. He stated the property was annexed into the City of Broken Arrow in 2001 by Ordinance No. 2393. He stated a lot split request was submitted to, and approved by, Wagoner County which divided the property into three parcels; however, the lots created in Wagoner County did not meet the minimum lot size and lot frontage requirements of the Broken Arrow zoning code for A-1 zoning which required 300 feet of frontage and 5 acres per lot. He explained after the lot split approved by Wagoner County was recorded, Ms. Sarah Wall purchased the northernmost parcel with the intent to construct a new single family residence; she enquired about a building permit and was referred to the Planning Department. He stated this was when the Planning Department discovered what had occurred and Ms. Wall was informed she would be required to come into compliance with Broken Arrow zoning ordinance as the property was located within Broken Arrow, not Wagoner County. He stated the property was designated Level 2 in the Comprehensive Plan, and RS-2 zoning was in conformance with the Comprehensive Plan in Level 2. He stated the Planning Commission, on October 21, 2018, recommended approval 4 to 0; Planning Commission recommended platting be waived provided right of way was dedicated along 51st Street or Evans Road in accordance with Subdivision Regulations. He stated three residents spoke at the Planning Commission Meeting in opposition to the rezoning with primary concerns being property division into smaller lots. He stated one resident worried about a residential single family neighborhood being developed in the area; however, it was explained this area was designated Level 2 within the Comprehensive Plan and residential single family neighborhood was allowed in Level 2. He indicated the current property owners had no intention of dividing the property further or of building more than one home for Sarah Wall. He stated he recommended approval of BAZ-2014 per Planning Commission and Staff recommendations.

Council Member Parks asked how large the lot was. Mr. Skates responded the property was 12.99 acres and Ms. Wall purchased a 3 acres parcel.

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

Move to approve BAZ-2014 as recommended by the Planning Commission and Staff

The motion carried by the following vote:

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

B. 18-1342 **Consideration, discussion, and possible action on Resolution No. 1163 - Corrected, a Resolution of Necessity to Condemn Property located in the Northwest Quarter of Section 7, Township 18 North, Range 15 East, Wagoner County, State of Oklahoma for the 23rd Street: Houston to Kenosha, widening project. Parcel 9 (Project No. ST0914)**

City Attorney, Trevor Dennis, stated this was a previously approved item; however, there were some scrivener's errors in the legal description which required correction. He stated he recommended City Council pass Resolution No. 1163 – Corrected.

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

Move to approve and authorize execution of Resolution No. 1163 – Corrected

The motion carried by the following vote:

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

C. 18-1301 **Consideration, discussion, and possible approval of and authorization to execute Resolution No. 1166, a Resolution of support for the Tulsa Chamber 2019 OneVoice Legislative Priorities**

Convention and Visitors Bureau Director, Lori Hill, reported the City of Broken Arrow had participated in the OneVoice for the past several years. She stated the Tulsa Metro Chamber of Commerce created the OneVoice Agenda to represent the Tulsa Metro Area at the State Capital and United States Capital as a unified voice. She stated each year OneVoice subcommittees met to discuss issues regarding the respective areas; this list was then narrowed down to a final list of State and Federal priorities as the OneVoice Legislative Priorities. She stated Resolution No. 1166 showed the city's support of the OneVoice Legislative Priorities.

Vice President of Government Affairs with Tulsa Metro Chamber of Commerce, Zach Stoycoff, thanked City Council for considering the OneVoice Agenda. He briefly described the work which went into the creation of the OneVoice Legislative Priorities and the various groups of individuals who participated in its creation. He stated education and economic incentives were well represented in the Legislative Priorities, as well as transportation funding. He reported last year the OneVoice was instrumental in acquiring raises for teachers.

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

Move to approve Resolution No. 1166 and authorize its execution

The motion carried by the following vote:

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

10. Preview Ordinances

- A. 18-1330 **Consideration, discussion, and possible preview of an ordinance amending Chapter 7-Business Regulations and Licenses, Article 1-In General, Section 7-12, Mobile food vendors; repealing all ordinances to the contrary; and declaring an emergency**

City Attorney Dennis stated this preview ordinance changed mobile vendor permitting requirements from a location based permit to an annual based permit which would allow mobile vendors to operate at various locations throughout the city.

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

Move to preview the ordinance and set it for adoption

The motion carried by the following vote:

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

Council Member Johnnie Parks left the Council Chambers at approximately 6:42 p.m.

11. Ordinances

- A. 18-1304 **Consideration, discussion, and possible adoption of Ordinance No. 3543, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ-2008, generally located one-half mile north of New Orleans Street, east of First Place, granting a RE zoning classification be placed upon the tract along with PUD-278, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency**

City Attorney Dennis reported on August 7, 2018, City Council approved BAZ-2008 and PUD-278 which rezoned the property generally located one-half mile north of New Orleans Street, east of First Place, from A-1 to RE; subsequently, it was determined combining the classifications for the property made sense within the Comprehensive Plan. He stated staff recommended City Council approve Ordinance No. 3543 and approve the emergency clause.

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

Move to adopt Ordinance No. 3543

The motion carried by the following vote:

Aye: 4 - Debra Wimpee, Mike Lester, Scott Eudey, Craig Thurmond

Recused: 1 - Johnnie Parks

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

Move for the emergency clause

The motion carried by the following vote:

Aye: 4 - Debra Wimpee, Mike Lester, Scott Eudey, Craig Thurmond

Recused: 1 - Johnnie Parks

Council Member Parks returned to the room at approximately 6:43 p.m. following the vote.

12. Remarks and Inquiries by Governing Body Members

Mayor Thurmond stated he had the honor of representing Broken Arrow last Friday in Washington DC in a meeting with HUD (Housing and Urban Development) and Secretary Carson. He stated regulations which imposed a cost to homeowners were the primary focus and Secretary Carson encouraged cutting many Federal Government regulations, as well as cutting regulations within local communities. He stated Secretary Carson encouraged home ownership and Broken Arrow was recognized as the best place for first time home buyers in the United States last July. He wished City Council, staff, and citizens a Happy Thanksgiving.

Council Member Wimpee reported Kristin Chenoweth would host a show called "Coming Home" Thanksgiving evening which was about her homecoming to Broken Arrow. She reported Thanksgiving morning, at 9:15 a.m., all Broken Arrow football players, past and present, were invited to go to the High School Stadium to talk with Broken Arrow State Champions.

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

There were no Remarks and updates by City Manager, including Recognition of Recent Accomplishments by Employees and Elected Officials.

At approximately 6:46 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 Scott Eudey, seconded by Mike Lester.

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 6:47 p.m. Mayor Thurmond reconvened the regular session of the City Council Meeting. He stated there was an Executive Session and he would entertain a motion

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

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

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

The motion carried by the following vote:

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

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

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. Litigation, including potential resolution, of a matter involving the litigation case of Brown & Perkins, LLC vs. City of Broken Arrow et al., Tulsa County District Court Case Number CV-2018-01338, under 25 O.S. §307(B)(4).

2. Litigation, including potential resolution, of a matter involving the litigation case of City of Broken Arrow v. Abatement Systems Inc., Tulsa County District Court Case Number CV-2018-4, under 25 O.S. §307(B)(4).

In the opinion of the City Attorney, the Council is advised that the Executive Session is necessary to process the pending claim, litigation and possible litigation and that disclosure will seriously impair the ability of the public body to process the claim or conduct a pending investigation, litigation or proceeding in the public interest. After the conclusion of the confidential portion of executive session, the Council will reconvene in open meeting, and the final decision, if any, will be put to a vote.

At approximately 7:10 p.m. Mayor Thurmond reconvened the regular session of the City Council Meeting.

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

Move to find that Executive Session was necessary

The motion carried by the following vote:

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

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

Move to authorize the City Attorney to enter into settlement negotiation with Abatement Systems, Inc. and authorize the City Attorney to negotiate a lease agreement to remain on the subject property until April 30, 2019

The motion carried by following vote:

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

At approximately 7:11 p.m. Mayor Thurmond and Vice Mayor Eudey left the Council Chambers prior to entering into another Executive Session and did not return.

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

Move to enter into another Executive Session

The motion carried by the following vote:

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

At approximately 8:02 p.m. the regular session of City Council was reconvened.

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

Move to find that Executive Session was necessary

The motion carried by the following vote:

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

15. Adjournment

The meeting adjourned at approximately 8:04 p.m.

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

Move to adjourn

The motion carried by the following vote:

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

Attest:

Mayor

City Clerk