



# City of Broken Arrow

## Minutes City Council Meeting

City Hall  
220 S 1st Street  
Broken Arrow OK  
74012

*Mayor Craig Thurmond*  
*Vice Mayor Scott Eudey*  
*Council Member Johnnie Parks*  
*Council Member Debra Wimpee*  
*Council Member Christi Gillespie*

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**Tuesday, December 15, 2020**

**Time 6:30 p.m.**

**Council Chambers**

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**1. Call to Order**

Mayor Craig Thurmond called the meeting to order at approximately 6:30 p.m.

**2. Invocation**

Pastor Scott Moore performed the invocation.

**3. Roll Call**

**Present: 5 -** Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

**4. Pledge of Allegiance to the Flag**

Council Member Johnnie Parks 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 Scott Eudey, seconded by Debra Wimpee.

**Move to approve the Consent Agenda**

The motion carried by the following vote:

**Aye: 5 -** Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

- A. 20-23 Approval of the City Council Meeting Minutes of December 1, 2020**
- B. 20-1544 Approval of the Special City Council Meeting Minutes of November 23, 2020**
- C. 20-1570 Approval of and authorization to execute Budget Amendment Number 17 for Fiscal Year 2021**
- D. 20-1517 Approval of and authorization to execute Resolution No. 1361, a Resolution of the Council of the City of Broken Arrow, Oklahoma, providing notice of and calling for a non-partisan general election, to be held for the council members for Ward 1 and Ward 2 to be held on April 6, 2021; establishing the filing period; providing for said officers to be nominated by ward and elected at large for a term of four years; setting forth residency requirements; providing for absentee ballots in accordance with state law; and providing that the Tulsa County Election Board is responsible for holding the elections and certifying the results**
- E. 20-1560 Approval of and authorization to execute Resolution No. 1362, a resolution authorizing acceptance of a General Warranty Deed for Tract A which consists of .61 acres of Permanent right-of-way for the 37th Street Detention Facility, generally located a half mile north of Albany Street on the west side of 37th Street, Broken Arrow, Oklahoma in the Northeast Quarter of Section 31, Township 19 North, Range 15 East, Wagoner County, State of Oklahoma, from New Bedford Park, LLC and New Bedford Lakes, LLC, Oklahoma limited liability companies for the 37th Street Detention Facility (Project No. SW1312)**
- F. 20-1561 Approval of and authorization to execute Resolution No. 1363, a resolution authorizing acceptance of a General Warranty Deed for Tract B which consists of 36.35 acres of Permanent right-of-way for the 37th Street Detention Facility, generally located a half mile north of Albany Street on the west side of 37th Street, Broken Arrow, Oklahoma in the Southeast Quarter of Section 31, Township 19 North, Range 15 East, Wagoner County, State of Oklahoma, from New Bedford Park, LLC and New Bedford Lakes, LLC, Oklahoma limited liability companies for the 37th Street Detention Facility Tract B (Project No. SW1312)**
- G. 20-1562 Approval of and authorization to execute Resolution No. 1364, a resolution authorizing acceptance of a General Warranty Deed for the Splash Pad which consists of 2.40 acres of Permanent right-of-way for the 37th Street Splash Pad, generally located a half mile north of Albany Street on the west side of 37th Street, Broken Arrow, Oklahoma in the Southeast Quarter of Section 31, Township 19 North, Range 15 East, Wagoner County, State of Oklahoma, from New Bedford Park, LLC and New Bedford Lakes, LLC, Oklahoma limited liability companies for the 37th Street Splash Pad (Project No. SW1312)**

- H. 20-1510** Acceptance of the Drainage Advisory Committee's recommendation of the construction of channel improvements to an unnamed tributary to Aspen Creek located in Indian Springs Estates and authorization of the expenditure of 2018 General Obligation Bond, Proposition 6 funds for the improvements
- I. 20-1537** Acceptance of the Drainage Advisory Committee's recommendation of the expenditure of up to a maximum of \$25,000.00 to design and construct a storm sewer system in Aspen Ridge subdivision and direction of staff to obtain necessary easements for such drainage improvements and authorization of the expenditure of 2018 General Obligation Bond, Proposition 6 funds, for the improvements
- J. 20-1569** Approval of and authorization to execute a Mutual Aid Agreement between the City of Broken Arrow and the City of Coweta for Building Inspection Services
- K. 20-1572** Approval of and authorization to execute Memorandum of Understanding between New Bedford Park LLC and the City of Broken Arrow for Stormwater Development
- L. 20-1470** Approval of and authorization to execute Amendment Number 2 to Agreement for Professional Consulting Services with Kleinfelder, Inc. for the 37th Street Regional Detention Areas - Wetland & Stream Mitigation Planning & Permit (SW1312B)
- M. 20-1530** Approval of and authorization to execute Amendment No. 3 to the Professional Consulting Services Agreement for Construction Administration with PDG, LLC, dba Planning Design Group, for the Arrowhead Park Improvements Umpire Building, Concessions & Restroom (176036)
- N. 20-1523** Approval of and authorization to execute Professional Services Amendment 1 for 37th Street Detention Park with PDG, LLC dba Planning Design Group (Project No. 166024)
- O. 20-1533** Approval of declaration declaring certain City owned vehicles and equipment as surplus and authorize the sale of those items by public auction
- P. 20-1519** Approval of and authorization to purchase one (1) Articulating Aerial Device and Truck Chassis with Utility Body, from Altec Industries Inc., pursuant to the Sourcewell Cooperative Purchasing contract (formerly NJPA)
- Q. 20-1541** Approval of and authorization to purchase Cyber Security upgrades and virtual Council Chamber improvements and approve and authorize execution of Budget Amendment No. 16
- R. 20-1539** Approval of and authorization to purchase a G2 Fire Station Alerting system from US Digital Designs, Inc. for Fire Station 3, which is currently under construction
- S. 20-1509** Award the lowest responsible bid to Becco Contractors, Inc., and approve and authorize execution of a construction contract for New Orleans Street Roadway Improvements from South Olive Avenue to South Aspen Avenue (ST1209)
- T. 20-1527** Approval of and authorization to execute Change Order #2 with Cherokee Pride Construction on Construction Contract ST1921; Detroit Street 3rd to 9th Street Rehabilitation
- U. 20-1526** Approval of and authorization to execute Corrected Change Order #2 regarding H & G Paving Contractors, Inc. for Construction Contract ST1616; Washington Street Improvements from Garnett Rd to Olive Ave
- V. 20-1514** Approval of PUD-236A (Planned Unit Development) and BAZ-2071 (Rezoning), Ferguson Superstore, 23.73 acres (PUD-236A) and 9.50 acres (BAZ-2071), CH, CG, and RM to PUD-236A/CH, located south of the Broken Arrow Expressway, east of Elm Place (161st E. Avenue)
- W. 20-1515** Approval of PUD-316A (Planned Unit Development), a major amendment to PUD-316, and BAZ-2070 (Rezoning), The Lakes at Rabbit Run, 36.98 acres, A-1 to PUD-316A/RS-4, located one-quarter mile south of New Orleans Street (101st Street), east of Olive Avenue (129th E. Avenue)
- X. 20-1538** Acceptance of a Drainage Easement and Two (2) Temporary Construction Easements from ISCC Managing Group, LLC., an Oklahoma limited liability company, on property generally located near the channel southwest of Jasper Street and Estates Avenue, Broken Arrow, Oklahoma 74011, located in the Northwest Quarter of the Section 10, Township 17 North, Range 14 East, Tulsa County, State of Oklahoma. Parcel 1.0, 1.A, 1.B for the Indian Springs Culvert and Channel Improvements (Project No. SW1911/SW1917)
- Y. 20-1525** Acceptance of a Sidewalk Easement from Freedom Wash, LLC, on property located one-quarter mile west of 9th Street (Lynn Lane), north of Kenosha Street (71st Street), Tulsa County, State of Oklahoma, (Section 02, T18N, R14E)
- Z. 20-1542** Ratification of the Claims List Check Register dated December 8, 2020

#### **6. Consideration of Items Removed from Consent Agenda**

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

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

- A. 20-1531** Consideration, discussion and possible direction on fund raising efforts by the Senior Center, including the possibility of room honorariums  
Council Member Johnnie Parks reported Broken Arrow was constructing a \$3.5 million dollar building for the Broken Arrow Senior Center across the street from the existing Senior Center. He noted Broken Arrow spent \$1.3 million dollars on land acquisition for a parking lot for the Senior Center and Soft Ball Complex (next door). He noted he was representing the Senior Center for this presentation. He stated Mr. Shawn Simpson, President and CEO of

the Senior Center, was present for questions. He indicated the Senior Center was in the process of a fund raiser to furnish the new and existing building; almost \$3 million dollars were needed. He explained furniture would cost approximately \$150,000 dollars, the fitness center would cost \$250,000 dollars to equip, and technology was required. He noted the Senior Center hired a company, Write On Fundraising. He indicated four Broken Arrow Citizens would co-chair a fundraising committee. He stated the Senior Center wished to create room honorariums in a fundraising effort; however, one of the rooms was already named per contract. He indicated the Senior Center would need to know which room this was soon. He stated the Senior Center wondered if it would be possible to sell room honorariums to specific companies if said companies were willing to furnish a room. He asked the City Attorney for input.

City Attorney Trevor Dennis indicated the current recreation use agreements for the current Senior Center would expire in June and a new use agreement was anticipated to be made for the new Senior Center. He stated Council Member Parks' proposals could be accomplished. He discussed the importance of calling this an honorarium as opposed to "naming rights" to prevent property rights confusion, and to ensure there were no violations of the "private business rule."

Council Member Parks agreed and noted the use of an honorarium would enable more than one person to donate to the furnishing of a room and be honored by the Senior Center by listing the donor's names, but not necessarily naming a room after a specific donor. He indicated he did not believe a special agreement would be needed for this to be done. He asked if he was correct.

City Attorney Dennis responded in the affirmative. He indicated no agreement was necessary for a plaque to be installed recognizing charitable donors.

Council Member Parks stated he was mentioning this fundraising effort to ensure City Council knew what was happening. He stated the new Senior Center would be the best Senior Center in this part of Oklahoma. He asked if a motion was needed.

City Attorney Dennis responded in the negative.

Council Member Parks asked for the room which was to be named to be identified to ensure honorariums were not given for said room.

City Manager Spurgeon stated this fundraising movement was a great initiative for the Senior Center. He noted the remaining construction project funds would be made available for furniture, equipment, and fixtures for the facility.

- B. 20-1546 Presentation and discussion regarding the COVID-19 Infection rate for Broken Arrow**  
City Manager Spurgeon reported the City Council Members were given an information packet for review and he would discuss this information. He displayed and discussed slides which illustrated the infection rates in Broken Arrow and Tulsa, new hospitalization rates in Broken Arrow and Tulsa, the impact of mask mandates, and case numbers in assisted living facilities in the City of Broken Arrow.

Mayor Thurmond commented hospitalization numbers in Broken Arrow were just as low as Tulsa; he was happy to see this.

Council Member Johnnie Parks commented Tulsa had a mask mandate in place while Broken Arrow did not, and Broken Arrow consistently had higher case numbers than Tulsa. He noted recently Broken Arrow had 662 cases per 100,000 residents while Tulsa had 289 cases per 100,000 residents. He noted Dr. Kendrick explained case numbers could be skewed when looking at mask mandate cities compared to non-mask mandate cities due to the dates the mask mandate was initiated. He stated he was disappointed with the nursing home case numbers. He indicated he felt it was important to continue reviewing the case numbers. He stated Dr. Kendrick indicated cities without mask mandates typically had 3% to 4% higher case numbers than cities with mask mandates. He noted it was possible case numbers would be reduced with inoculations. He indicated he was a firm believer in the ability to reduce case numbers by wearing a mask.

Council Member Christi Gillespie reported 47% of COVID deaths in the 74012 zip code were within nursing home and long-term care facilities. She indicated there had been 45 deaths in 74012 and 19 of these deaths were within the long-term care facilities. She stated she wondered why individuals were catching COVID in a facility where no visitors were permitted, and health care workers wore masks and utilized proper sterilization protocols. She stated she was bothered these residents were not permitted to see their families and families could not say goodbye. She indicated she did not believe the mask was helping these residents. She discussed the case numbers reported in the Oklahoma mask mandate cities versus the Oklahoma non mask mandate cities. She indicated she did not see a correlation

between increased COVID deaths and non-mask mandate cities. She stated she would not vote to approve a mask mandate, but this did not mean she did not understand COVID was a real sickness which was killing people. She stated wearing a mask did not keep individuals from catching COVID. She commented she had four friends who were in the ICU as a result of COVID this past month, two of whom were now out of the hospital. She stated she believed increased case numbers in Broken Arrow were the result of residents socializing more as compared with the residents of Tulsa, and not related to a mask mandate. She stated the hate being directed towards the City Council Members was unfounded and unfair.

Council Member Parks stated Tulsa has had lower case numbers than Broken Arrow since it instituted its mask mandate. He noted the medical community believed the masks helped reduce case numbers. He noted the White House medical professionals indicated children were safer in schools than out. He noted the Broken Arrow Public Schools Superintendent indicated the school's support staff caught COVID in the community and this caused the schools to be closed. He stated in Tulsa the schools were closed when children caught COVID out in the community and brought COVID into the schools. He stated he agreed schools were safe for children; however, there were too many individuals bringing COVID into the schools from the community. He stated he did not believe masks would keep you from catching COVID entirely, but he believed masks helped reduce case numbers.

Council Member Debra Wimpee stated she understood schools were closed due to school staff members not being deemed essential and being required to quarantine when exposed to COVID even with a negative test result.

Vice Mayor Scott Eudey stated grade schools had been open for two weeks and middle school students went back today.

Council Member Wimpee stated out of the approximately 2,400 school staff members, there were 41 positive cases, and 217 recovered cases; out of the approximately 14,000 students there were 44 positive cases.

Council Member Parks indicated the Broken Arrow Public Schools were doing an excellent job tracking COVID case numbers daily. Discussion ensued regarding the excellent job Broken Arrow Public Schools were doing regarding COVID issues. Discussion ensued regarding the case numbers in Edmund, OK, as compared with the case numbers in Broken Arrow, and case numbers continuing to rise throughout the State.

Vice Mayor Eudey noted the City of Broken Arrow diligently reminded residents and encouraged residents to follow CDC recommendations which included social distancing, wearing a mask, washing hands, etc. He indicated it was a common courtesy to others to practice mask wearing. He noted case numbers were rising state-wide and if wearing a mask brought case numbers down by even 2%, he was willing to wear a mask. He stated whether or not the government imposed a mask mandate, as a good citizen it was important to be mindful of how others felt regarding the importance of wearing a mask. He asked if it helped others to feel more comfortable in public, was it such an imposition to wear a mask. He stated he believed it was common courtesy. He noted his cousin died of COVID yesterday. He stated people were dying of COVID, people were hurting as a result of COVID, and if wearing a mask made another person feel better, it was worth caring enough to wear a mask.

Council Member Wimpee stated just because Broken Arrow did not enforce a mask mandate did not mean Broken Arrow did not understand COVID was a serious problem and mask wearing was important. She noted Broken Arrow residents wore masks.

Vice Mayor Eudey stated at this point he was leading by example in wearing a mask whenever he was out in public and could not properly social distance out of doors.

Council Member Parks noted he wore a mask when in public as well. He stated he did not want to see the City have to close down due to increased case numbers.

Vice Mayor Eudey stated he wished to compare the data collection sites being utilized. He asked if it would be possible to collect data from a single entity. City Manager Spurgeon responded in the negative. He explained the difficulty in collecting data from a single entity. Discussion ensued regarding data collection, and ensuring the data collected was consistent with other data collection sources.

Vice Mayor Eudey indicated he wished to obtain data from a single source, such as the State of Oklahoma Health Department. Discussion ensued regarding data collection and data sources. City Manager Spurgeon indicated he would check the information and see if it were consistent across the data source sites. Discussion ensued regarding the inconsistency of data causing difficulties in decision making.

Council Member Gillespie asked if any City Council Members had been tested for a medical problem prior to the COVID pandemic. Vice Mayor Eudey and Council Member Parks responded in the affirmative. Council Member Gillespie stated generally people did not get tested for the flu simply due to exposure to the flu, while people were continually tested for COVID due to possible exposure. She stated only 0.0002% of 18-year-old to 35-year-old individuals who tested positive for COVID died of COVID. Discussion ensued regarding the possibility of spreading COVID to those who were more susceptible to severe COVID symptoms.

Council Member Gillespie stated case numbers were inflated due to the testing of individuals for travel purposes, work purposes, and just in case purposes. She noted there were many different diseases individuals passed on to others unknowingly which could have fatal results. She stated those who were most vulnerable to COVID fatality, such as those with heart disease over the age of 65, needed to be extremely careful. She stated 85% of COVID deaths were in individuals over the age of 65 who had comorbidities. She stated these individuals needed to be protected. She indicated she wore a mask around her elderly grandparents, around those who were immune compromised, etc. She stated if she went out to eat and did not wear a mask, it did not mean she did not care about the public; this rhetoric was hurtful. He stated it was hurtful to accuse someone of not caring.

Council Member Parks stated many individuals were being tested to ensure COVID would not be spread others, especially given individuals could have COVID without any symptoms. He discussed the difficulties caused by the lack of symptoms, why individuals chose to be tested, and the spread of COVID.

Citizen Jason Coan stated his address was 1716 S. Narcissus Place. He thanked City Council. He indicated he and the Mayor shared a birthday. He stated he was not afraid of the COVID virus but was present to speak on behalf of those who were afraid of COVID. He noted those who were afraid of COVID were less likely to attend a meeting to speak; therefore, he was acting as an advocate for these individuals. He stated he did not believe the City Council had any ill intent and were all acting as community servants. He discussed the 14<sup>th</sup> Amendment which was being violated by those in the community who would not wear a mask to ensure the safety and comfort of others. He stated when civil liberties were impacted the government should act.

Citizen Aiden Dodd stated his address was 3804 W. Twin Oaks Street. He thanked City Council. He stated he was a senior at Broken Arrow High School. He stated he did not feel he could attend school safely without a mask mandate. He listed the school activities and clubs he was involved with. He noted he was highly involved with school activities. He stated hospitals were overflowing. He indicated one of his relatives, after going to four hospitals, was finally admitted to St. John's in Tulsa where she passed away as a result of the hospital staff being overwhelmed. He quoted an article which indicated Council Member Wimpee felt those who were high risk individuals should "take care of their own health." Council Member Wimpee indicated this was a misstatement of her feelings. Mr. Dodd stated one of his classmates recently was in the ICU for COVID; his classmate survived but would have lasting effects from COVID. He noted his friend was now required to wear a heart monitor and obtain EEGs and MRIs to assess COVID damage. He noted his friend did everything she could to avoid COVID, including mask wearing, social distancing, etc., but caught COVID from those around her who did not wear a mask. He compared wearing a mask to protect against the pandemic to wearing a seatbelt in the car to protect against fatal accidents or wearing oven mitts to protect against burns. He thanked Council Member Parks.

Vice Mayor Eudey thanked Mr. Coan for speaking on behalf of those who were unable to attend the meeting. He thanked Mr. Dodd for his comments. He indicated it was important to be ensure students were safe within school.

## **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 signed up to address the Council on general topics related to City business or services.

## **9. General Council Business**

### **A. 20-1524 Consideration, discussion, and possible appointment of three (3) representatives and one alternate representative to the Indian Nations Council of Governments (INCOG) Board of Directors and one representative and one alternate to the INCOG General Assembly, each for a two-year term beginning in January 2021**

Economic Development Coordinator Norm Stephens reported the City of Broken Arrow was allocated three positions on the Indian Nations Council of Governments (INCOG) Board of Directors. He indicated each representative served a two-year term commencing the first day in January of each odd numbered year. He noted generally, because three Broken Arrow City Council members serving on the Board of Directors would result in a public meeting posting by the City, the designated representatives were historically two City Council members and

the City Manager, with a third City Council Member as the alternate. He stated as a participating member of INCOG, the City of Broken Arrow could also appoint one elected official as a representative to the General Assembly; historically, the City Manager served as the alternate. He stated at the December 4, 2018 City Council meeting, Mayor Craig Thurmond, Vice Mayor Scott Eudey, and City Manager Michael Spurgeon were nominated to serve as INCOG Board Members with Councilor Johnnie Parks nominated as Board Alternate. He stated at the December 4, 2018 City Council meeting, the vote for the General Assembly representatives for terms beginning January 2019 was inadvertently missed; thus, the Council ratified the appointment of City Manager Michael Spurgeon as a member of the INCOG General Assembly and Council Member Parks as the alternate at the December 18, 2018 meeting. He stated there were two recommendations attached as above.

Vice Mayor Eudey stated he enjoyed serving on the INCOG Board and would enjoy continuing to serve in this capacity.

Mayor Thurmond indicated he would like to continue serving on the INCOG Board as well. He indicated City Manager Spurgeon should also continue to serve on the INCOG Board.

Council Member Gillespie indicated she would also like to serve on the INCOG Board in the future.

Council Member Parks stated he was willing to serve as the alternate again; however, if Council Member Gillespie wished to serve on the Board, serving as the alternate would be a good starting position.

Council Member Gillespie stated she was interested in serving as an alternate.

City Manager Spurgeon commented last year on several occasions the alternate was required to participate. Discussion ensued regarding the meeting being held the second Tuesday of every month in downtown Tulsa at 1:30 p.m.

MOTION: A motion was made by Johnnie Parks, seconded by Scott Eudey.  
**Move to appoint Craig Thurmond, Scott Eudey and Michael Spurgeon to serve on the INCOG Board, and to appoint Christi Gillespie to serve as the alternate, for a two-year term beginning in January 2021**

The motion carried by the following vote:  
**Aye: 5 -** Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

MOTION: A motion was made by Johnnie Parks, seconded by Debra Wimpee.  
**Move to appoint Michael Spurgeon to serve on the General Assembly and to appoint Christi Gillespie to serve as the alternate, for a two-year term beginning in January 2021**

The motion carried by the following vote:  
**Aye: 5 -** Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

**B. 20-1534 Consideration, discussion, and possible award of the lowest responsible bid to Cherokee Pride Construction Inc. and approval of and authorization to execute a construction contract for the Indian Springs Culvert and Channel Improvements (SW1917)**

Stormwater Division Manager Patrick Wilson reported this project was located along an unnamed tributary to Aspen Creek flowing through Indian Springs Estates and Indian Springs Golf Club. He stated the work consisted of channel grading, culvert installation, associated golf cart path re-construction, and erosion control measures. He explained in order to take advantage of the “off-season” for golf, the overall project has been phased. He stated the channel improvements would be constructed as a part of this contract; however, a future public construction contract would be let for construction of a bridge/culvert replacement for Jasper Street. He noted the contract time for the project was ninety calendar days. He stated the project was advertised on November 10<sup>th</sup>, 2020 and November 17<sup>th</sup>, 2020; seven bids were received on December 1, 2020 and the lowest responsible bid was Cherokee Pride Construction Inc. for \$188,385 dollars. He noted the Engineer’s Estimate for the project was \$242,215.50. He stated the Drainage Advisory Committee recommended the expenditure of \$106,000 dollars from Proposition 6 funds for this project and the remaining \$88,000 dollars would be funded through the Stormwater Capital Improvement Fund.

City Manager Spurgeon asked if Cherokee Pride had other projects in the City. Mr. Wilson responded in the affirmative. City Manager Spurgeon noted Cherokee Pride was a good contractor and was currently operating about one month ahead of schedule on a project for the City of Broken Arrow.

MOTION: A motion was made by Debra Wimpee, seconded by Johnnie Parks.  
**Move to award the lowest responsible bid to Cherokee Pride Construction Inc. and approve and authorize execution of a construction contract for the Indian Springs Culvert and Channel Improvements (SW1917)**

**Aye: 4 -** The motion carried by the following vote:  
**Abstain: 1 -** Christi Gillespie, Debra Wimpee, Johnnie Parks, Craig Thurmond  
Scott Eudey

**C. 20-1535 Consideration, discussion, and possible award of the lowest responsible bid to Ground Level, LLC and approve and authorize execution of a construction contract for the 37th Street Regional Detention Drainage Improvements (SW1312)**

Mr. Patrick Wilson reported this project was located in an unplatted area adjacent to S. 37th St., Broken Arrow, OK. He stated the work consisted of grading, trails, and erosion control measures in the construction of a regional detention facility. He noted contract time for the project was 180 calendar days. He reported the project was advertised on October 27<sup>th</sup>, 2020 and November 3rd, 2020; twelve bids were received on November 24th, 2020 and Dirt Wurx, LLC was the apparent lowest bidder, however, its bid was rejected because it was incomplete for a failure to provide an attached explanation for inability to certify statements in the Certification Regarding Debarment, Suspension, and Other Responsibility Matters. He noted the City of Broken Arrow had the right to reject any and all bids and proposals which were incomplete, obscure or differed from the requested specifications. He indicated as a result, the lowest responsive bid was Ground Level, LLC for \$783,509 dollars; the Engineer's Estimate for the project was \$1,227,856 dollars. He stated the funding sources for this project were the 2011 and 2018 General Obligation Bonds and the Stormwater Capital Improvement Funds.

City Manager Spurgeon stated this was an excellent cost proposal and he spoke with Mr. Kenny Schwab and was satisfied all specifications had been met. Mr. Wilson concurred. City Manager Spurgeon noted this project was a part of an economic development agreement between the City of Broken Arrow and New Bedford Development; this would fulfill part of Broken Arrow's obligation as a result of this agreement.

MOTION: A motion was made by Scott Eudey, seconded by Christi Gillespie.

**Move to award the lowest responsible bid to Ground Level, LLC and approve and authorize execution of a construction contract for the 37th Street Regional Detention Drainage Improvements (SW1312)**

The motion carried by the following vote:  
**Aye: 5 -** Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

**D. 20-1532 Consideration, discussion, and possible approval of the council appointments to the New Orleans Square Advisory Committee**

Community Development Director Larry Curtis reported on November 3, 2020 City Council created a seven-member Advisory Committee to provide suggestions and guidance regarding various future steps and projects to be considered and possibly implemented for New Orleans Square. He noted the following were the proposed appointments:

Ward 1: Jonathan Townsend  
Ward 2: Mindy Payne  
Ward 3: John Dobberstein  
Ward 4: Corey Else  
At Large: Danny Miller  
City Manager's Office: Michael Spurgeon  
Broken Arrow Chamber: Lori Lewis

Discussion ensued regarding the proposed appointments being excellent choices.

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

**Move to approve the proposed appointments to the New Orleans Square Advisory Committee**

The motion carried by the following vote:  
**Aye: 5 -** Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

**E. 20-1508 Consideration, discussion, and possible approval of and authorization to execute an Agreement for Professional Consultant Services with Kimley-Horn and Associates, Inc. for the New Orleans Square Intersection Improvements (Project Number ST1928)**

Director of Engineering and Construction Ethan Edwards reported the New Orleans Intersection at Elm Place project was a named 2018 GO Bond project and was identified by the New Orleans Square Committee as a project to enhance the redevelopment of the New Orleans Square area. He stated with this in mind, the Engineering and Construction Department selected four national A/E firms from the list of ranked and qualified firms which submitted statements of qualifications for the 2018 GO Bond Proposition 1, Transportation Projects, to interview for the conceptual report and design. He stated an Interview Committee consisting of Engineering and Construction Department and Community Development Department staff members was formed; all four A/E firms were interviewed by the Committee, and ultimately Kimley-Horn and Associates, Inc. was selected based upon the following criteria: proposed project team experience, company experience, and project

understanding/approach. He reported the Engineering and Construction Department negotiated a Professional Consultant Services Agreement with Kimley-Horn and Associates, Inc. for this project, the scope of which included a conceptual design report and plans which would lead to construction documents for bidding purposes for the project. He indicated the New Orleans Square Intersection improvements to be considered included: reconstruction of the intersection to improve traffic flow and walkability, ADA features, providing bicycle lanes or trails, gateways and signage, multi-modal traffic usage, corridor landscaping and branding elements, and other goals to support the redevelopment of New Orleans Square area including the four legs of the roadway. He noted the report would analyze and evaluate the potential implementation of a roundabout versus a traditional signalized-control intersection. He indicated Luke Schmidt with Kimley-Horn was present.

Mr. Curtis discussed the teamwork efforts between his department and the Engineering and Construction department and how these efforts had been a positive learning experience for both departments.

Mr. Luke Schmidt stated he was excited about this project and looked forward to working with the City of Broken Arrow. He stated he was a professional engineer and professional traffic operations engineer. He indicated he led a team of six professional engineers and seven engineers in training. He stated his team specialized in mobility planning and engineering. He gave a brief history of Kimley-Horn and listed Kimley-Horn's qualifications. He indicated the intent of this project was to evaluate multiple intersection improvements for the New Orleans Square intersection. He stated the goal of the project was to reconstruct the intersection to improve walkability, corridor landscaping and branding elements, and create a sense of place to support the redevelopment of New Orleans Square. He indicated if approved, Kimley-Horn would be tasked with intersection design. He stated preliminary findings would be presented to City Council for consideration. He stated this project would complement the New Orleans Square Overlay District Project and the ongoing branding effort. He stated he anticipated presenting the feasibility study and alternatives to City Council in June of 2021; the intent was for City Council to then authorize a preliminary final design for a preferred alternative, for which the design would be completed by the end of 2021.

Council Member Gillespie thanked Mr. Luke Schmidt and indicated she was excited about this project.

MOTION: A motion was made by Christi Gillespie, seconded by Debra Wimpee.

**Move to approve and authorize execution of an Agreement for Professional Consultant Services with Kimley-Horn and Associates, Inc. for the New Orleans Square Intersection Improvements (Project Number ST1928)**

The motion carried by the following vote:

**Aye: 5 -** Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

**F. 20-1551 Consideration, discussion, and possible action regarding setting a hearing date for an appeal of the Planning Commission decision on SP-298 (Specific Use Permit), Living Rivers USA, Inc., 5.75 acres, request for a Specific Use Permit for a Place of Assembly, one eighth mile south of New Orleans Street (101st Street), east of Elm Place (161st E. Avenue)**

Mr. Larry Curtis reported Specific Use Permit (SP)-298 was a request for a Specific Use Permit for a Place of Assembly on property presently zoned CG (Commercial General) that was located one-eighth mile south of New Orleans Street (101st Street), east of Elm Place (161st E. Avenue). He indicated there was a vacant building on the property which was previously used as a grocery store. He explained Living Rivers USA, Inc. wanted to hold church services in the existing vacant building and as a result, submitted a request for a Specific Use Permit. He reported this item was considered by the Planning Commission in a public hearing held November 19, 2020; the application was denied by a 3-2 vote by the Planning Commission. He stated the applicant submitted a letter of appeal to the Planning and Development Division on November 30, 2020. He noted Staff requested the appeal date be set for January 5, 2021.

Council Member Parks asked if the individuals who spoke in opposition to this item would be notified. Mr. Curtis stated zoning ordinance process indicated the public hearing was completed; therefore, notification was no longer required. He stated it was explained there was an opportunity for appeal and if any citizens were so inclined said citizens would need to watch for the appeal hearing.

Vice Mayor Eudey asked about Staff's recommendation. Mr. Curtis stated Staff recommended denial. Vice Mayor Eudey asked if the January 5, 2021 appeal date gave the City and the applicant sufficient time to prepare for the appeal. Mr. Curtis responded in the affirmative.

Council Member Parks asked if Staff still recommended denial. Mr. Curtis stated he would



prefer to make his recommendation during the appeal hearing.

Council Member Gillespie stated she was against holding a hearing for the appeal as she felt the Elm and New Orleans Advisory Committee worked very hard for over a year to develop a plan, approved by City Council, which had not been allowed to be established properly yet.

Vice Mayor Eudey indicated, statutorily, City Council was obligated to hear the appeal. Mayor Thurmond agreed.

Council Member Parks asked if those opposed to the Specific Use Permit would be allowed to speak at the appeal hearing. Mr. Curtis responded in the affirmative.

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

**Move to approve the appeal hearing date to be set for January 5, 2021**

The motion carried by the following vote:

**Aye: 5 -** Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

**G. 20-1556**

**Consideration, discussion, and possible approval of an amendment with Tyler Technologies for the Tyler (EnerGov Community Development Suite and EnerGov Business Management Suite) Community Development software system and authorize the continued execution of the Professional Consultant Agreement with Berry Dunn McNeil & Parker, LLC dba BerryDunn for Project Management Services for the Community Development Enterprise Resource Planning (ERP) project**

Mr. Larry Curtis reported he was excited to bring this before City Council; this was a project which had been in the making for over a year. He stated this was an amendment to the existing software package used by the Finance Department (Munis). He briefly discussed the history of this project and indicated this new software would bring Broken Arrow into the 21<sup>st</sup> Century in terms of providing services to the public.

City Manager Spurgeon asked Mr. Curtis to discuss the modernization.

Mr. Curtis stated the current software package utilized by Broken Arrow was built in the early 1990s and it was exceedingly difficult to integrate the current software with the expectations of the modern times. He stated residents expected to be able to order an inspection with the push of a button on a cell phone. He discussed the difficulty Staff faced with even being able to allow a resident to submit an application online. He indicated the current software was simply outdated and difficult. He stated the Tyler product would enable residents to submit requests electronically, enable a hybrid process for application submissions, enable electronic submissions for inspectors, etc. He noted the Tyler software would speed up processes significantly.

City Manager Spurgeon noted this project was a General Obligation Bond project.

MOTION: A motion was made by Christi Gillespie, seconded by Debra Wimpee.

**Move to approve the amendment with Tyler Technologies for the Tyler (EnerGov Community Development Suite and EnerGov Business Management Suite) Community Development software system and authorize the continued execution of the Professional Consultant Agreement with Berry Dunn McNeil & Parker, LLC dba BerryDunn for Project Management Services for the Community Development Enterprise Resource Planning (ERP) project**

The motion carried by the following vote:

**Aye: 5 -** Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

**10. Preview Ordinances**

There were no preview ordinances.

**11. Ordinances**

**A. 20-1522**

**Consideration, discussion, and possible adoption of Ordinance No. 3669, An Ordinance of the City of Broken Arrow amending the City of Broken Arrow Code of Ordinances Chapter 7, Article XV Medical Marijuana, Business Regulations, and licensing; repealing all ordinances or parts of ordinances in conflict herewith; and declaring an emergency**

Mr. Larry Curtis reported Ordinance No. 3542 was adopted by City Council on September 18, 2018, specifying business regulations and licensing procedure for medical marijuana activity in the City of Broken Arrow, was reviewed by the Planning Commission, and previewed by City Council on November 17, 2020. He reported Ordinance No. 3669 would replace this ordinance with minor modifications already previewed by City Council.

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

**Move to adopt Ordinance No. 3669**

The motion carried by the following vote:

**Aye: 5 -** Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

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

**Move for the emergency clause**

The motion carried by the following vote:

**Aye:** 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

**12. Remarks and Inquiries by Governing Body Members**

Mayor Thurmond wished City Council, Staff, and the Citizens of Broken Arrow a Merry Christmas and a Happy and Prosperous New Year.

Vice Mayor Eudey concurred and encouraged all to stay safe.

Council Member Wimpee stated she was happy the children were back in school. She noted her daughter, a high school student, was thrilled to be back in school.

Vice Mayor Eudey indicated his daughter was excited to return to school as well.

Council Member Gillespie wished the Bill of Rights a Happy Birthday.

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

City Manager Spurgeon commended the Broken Arrow Sanitation Crews for working through the snow yesterday. He noted Broken Arrow exceeded 800 permits for new single-family homes today which reflected growth in the Community. He indicated he and all Broken Arrow employees wished the City Council a Merry Christmas and a Happy New Year. He thanked Broken Arrow business owners for supporting the City of Broken Arrow.

Mayor Thurmond indicated there was an Executive Session; therefore, he would entertain a motion for a brief recess to enter into BAMA and BAEDA.

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

**Move for a brief recess**

The motion carried by the following vote:

**Aye:** 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

MOTION: A motion was made by Debra Wimpee, seconded by Christi Gillespie.

**Move to enter into the Executive Session**

The motion carried by the following vote:

**Aye:** 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, 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, conferring on matters and possible action in open session pertaining to:**

**1. Potential litigation or action, asserted by OKMC LLC DBA Paradise Brands, and taking appropriate action in open session, including possible authorization to settle, negotiate, or defend against the claim, 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 litigation and 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.**

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

**Move to find the Executive Session necessary**

The motion carried by the following vote:

**Aye:** 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

**15. Adjournment**

The meeting adjourned at approximately 9:02 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:** 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

Mayor

City Clerk