



City Hall, Council Chambers
401 S. Johnstone Avenue
Bartlesville, OK 74003

**REGULAR MEETING OF THE
BARTLESVILLE CITY COUNCIL
Monday, November 1, 2021
7 p.m.**

**Mayor Dale Copeland
918-338-4282**

MINUTES

(The Notice of Meeting was posted December 15, 2020
and the Agenda was posted October 28, 2021 at 5:00 p.m.)

Present were Mayor Dale Copeland, Vice Mayor Jim Curd, Jr., Councilmembers Trevor Dorsey, Paul Stuart, and Billie Roane.

City staff present were Mike Bailey, City Manager; Jess Kane, City Attorney; Jason Muninger, City Clerk/CFO; Kelli Williams, Chief Communications Officer; Lisa Beeman, Director of Community Development; Micah Siemers, Director of Engineering; Matt McCollough, Director of IT; Captain Troy Newell, Security; and Elaine Banes, Executive Assistant.

- 1. The business meeting of the Bartlesville City Council was called to order at 7:00 p.m. by Mayor Copeland.**
- 2. Roll call was held and a quorum established.**
- 3. The invocation will be provided by Jason Elmore, Friday Nite Church and President Bartlesville Ministerial Association.**
- 4. Citizens to be heard.**

Mr. Jay Janzen stated he was interested in Item 8. regarding use tax, but would not speak on it after all.

Mr. Ron Littrell stated his concern about parking at Wilson School on Ohio Street during drop-off and pick-up times.

5. City Council Announcements, Commendations and Proclamations.

Mayor Lockin welcomed a scout from Troop 5 who was in attendance to earn his Citizenship in Community Badge.

Mayor Copeland reported the passing of former Mayor Ted Lockin touching on what a great asset and ambassador he was to Bartlesville.

- Small Business Saturday Proclamation – November 27, 2021. Presented by Mayor Copeland.
- Extra Mile Day Proclamation – November 1, 2021. Presented by Councilman Dorsey.

6. Authorities, Boards, Commissions and Committee Openings

- Two openings on the Ambulance Commission
- One opening on the Bartlesville Area History Museum Trust Authority
- One opening on the Bartlesville Convention & Visitor's Board
- One opening on the Board of Adjustment
- One opening on the Construction and Fire Codes Appeals Board
- Two openings on the White Rose Cemetery Board

Mayor Copeland read the openings and encouraged citizens to volunteer on City Committees. Applications can be found at www.cityofbartlesville.org or at City Hall in the City Manager's Office.

7. Consent Docket

a. Approval of Minutes

- i. The Regular Meeting Minutes of Monday, October 4, 2021.
- ii. The Special Meeting Minutes of Friday, October 22, 2021.

b. Approval of Agreements, Contracts, Leases, Memorandums of Understanding and Order Forms

- i. Contract and ARPA Terms and Conditions Agreement between the Bartlesville Public Library/City of Bartlesville and the Oklahoma Department of Libraries for grants funds totaling \$15,377.86 that will be used for the purchase of connectivity devices and collection materials.
- ii. Agreement between the City of Bartlesville and Washington County for updated Pictometry High Definition Aerial Photography.
- iii. Agreement between Joshua Yonkin and Daniel Colley and the City of Bartlesville for the Temporary Deferment of the Completion of Required Site Development Improvements.
- iv. Agreement between Adams Muir Land Trust and others, and the City of Bartlesville concerning required public infrastructure improvements for conveyance of land and lot line adjustment to Lot 10, Block 5, Grand Prairie Addition to the City of Bartlesville, Washington County, OK.
- v. Lease of Hangar 8 between the Bartlesville Municipal Airport/City of Bartlesville and the WWII Airborne Demonstration Team Foundation for the purposes of aircraft storage and aeronautical activity at the Bartlesville Municipal Airport.
- vi. Customer Service Order Form between the City of Bartlesville and CDW for cloud-based backup provided by iland Internet Solutions Corporation.

c. Approval of Resolutions

- i. A resolution for the selection of pre-qualified engineering consulting firm, Guy Engineering Services, to perform bridge inspections between April 1, 2022 and March 31, 2024.
- ii. A resolution amending the Budget for the Golf Course Memorial Fund for FY 2021-22 for donations in the amount of \$11,794 for the purchase of tools and equipment for the golf course.
- iii. A resolution amending the budget of the City of Bartlesville, Oklahoma for Fiscal Year 2021-2022, appropriating unanticipated private grant revenue for the Special Revenue Fund from the Lyon Foundation in the amount of \$6,000 for playground equipment.

d. Application for Federal Assistance Authorization Request

- i. Authorize Mayor to execute Application for Federal Assistance (OMG SF-424) form for receipt of American Rescue Plan Act (ARPA) funding for Bartlesville Airport operational expenses.

e. Receipt of Financials

- i. Interim Financials for the three months ending September 30, 2021.

Mayor Copeland read the consent docket in its entirety.

Mr. Stuart moved to approve the consent docket, seconded by Ms. Roane.

Aye: Ms. Roane, Mr. Stuart, Mr. Dorsey, Vice Mayor Curd, Mayor Copeland

Nay: None

Motion: Passed

8. **Discuss and take possible action to adopt an ordinance levying and assessing an excise tax equal to the prevailing sales tax rate levied by the City of Bartlesville, Oklahoma, on the purchase price upon the storage, use or consumption of tangible personal property purchased outside the State of Oklahoma and brought into the City of Bartlesville, Oklahoma; providing for the automatic change in use tax rate upon change in the prevailing sales tax rate; providing exemptions thereto; specifying when such taxes are payable; providing such taxes constitute superior claims; providing collection of tax by retailer or vendor; providing for collection of tax by retailer or vendor not maintaining place of business within State or both within and without State; providing for revoking permits; establishing remunerative deductions allowed vendors or retailers of other states; providing interest and penalties for delinquent payment of taxes; providing for waiver of interest and penalties; providing for submission of claim for refund of erroneous payments; providing penalties for fraudulent returns; providing that records shall be confidential and privileged; providing that taxes collected hereunder shall be cumulative; providing for severability of the sections of this ordinance; defining terms; defining tax collector; establishing classification of tax payers; ratifying subsisting State permits; establishing purposes for which revenues collected hereunder shall be expended; establishing citation of the ordinance; providing for supersedance of prior ordinances; establishing an effective date and containing other provisions related thereto. Presented by Jason Muninger, CFO/City Clerk.**

Mr. Muninger provided background on use tax, on the State Supreme Court Case of Quill v. North Dakota in 1992, and how the Supreme Court Case of South Dakota v. Wayfair brought many changes to remote seller sales tax laws across the country. Most importantly for the City of Bartlesville, the State of Oklahoma passed the Oklahoma Marketplace Facilitator Act. This law requires marketplace facilitators, remote sellers, and referrers with at least \$10,000 of sales in the State of Oklahoma to collect and remit remote sales tax (which is codified as use tax in Oklahoma). Remote vendors held the same obligations as in-state vendors, however out-of-state vendors were required by law to remit taxes on remote sales as use, not sales tax. Therefore, Bartlesville did not receive any taxes on internet sales since it does not have a use tax.

As a result of this substitution, use tax growth is outpacing sales tax growth by a large margin. In fact, use tax has grown by 12% across the state in the last 24 months, while sales tax has only grown by 2% during that same period. Staff believes that the pandemic

accelerated the growth in online shopping which harms our traditional sales tax. It is expected that habits formed during the pandemic will continue, so this effect will likely be permanent. An analysis performed earlier this year indicated that Bartlesville is in the minority in our state by not having a use tax. Below are the statistics that staff had compiled prior to the most recent census based on population:

- Bartlesville is the 12th largest city in the state.
- Bartlesville is the only city in the top 100 by population without a use tax.
- The next largest city without a use tax is Bethel Acres with 3,147 population
- There are only 2 cities (including Bartlesville) over 1,500 population without a use tax.
- 98.5% of the cities in the top 200 by population have a use tax.
- 97% of the cities in the top 300 by population have a use tax.

Mr. Muninger continued stating that times have changed dramatically in relation to use tax. The advent of “internet sales tax” being codified as use tax in the State of Oklahoma has required cities to adopt a use tax in order to ensure that remote vendors must play by the same rules as local vendors. The stakes are now much higher than in the past.

He concluded that traditional sales tax is still our largest source of revenue, but much of the growth in retail sales is shifting to online sales. Without a use tax, we will likely be forced to continually increase our sales tax to overcome the lack of growth. This is an unsustainable model that requires diversification to avoid long-term disruption to essential services. This Ordinance does contain a delayed effective date of January 1, 2023 to allow for planning and budgeting by those who are impacted.

A brief discussion covered how passing the use tax ordinance levels the playing field for all businesses; the CARES and ARPA funds are in place to bridge the gap until use tax funds are collected (if needed); the beginning date of January 1, 2023 provides time to businesses and consumers to prepare for the collection of use tax; budgeting of the estimated funds will occur; the receipt of use tax funds will be reported in the monthly interim financial reports; use tax is not additional taxation on citizens; reporting tax on untaxed purchases should already be reported on the Oklahoma Income Tax form; and that the ordinance sets out that the funds received will be unrestricted in their use. Ms. Roane pointed out that if citizens wish to see the City Council packet that includes the full report on this item, it is available on the City website.

Mr. Dorsey moved to adopt the ordinance as presented, seconded by Vice Mayor Curd.

Aye: Mr. Stuart, Mr. Dorsey, Vice Mayor Curd, Ms. Roane, Mayor Copeland

Nay: None

Motion: Passed

9. New Business.

There was no new business to present.

10. City Manager and Staff Reports.

Mr. Bailey stated his appreciation of the City Council for approving the Use Tax Ordinance.

He also reported on a recent arrest of a juvenile for a capital crime who is a member of the Cherokee Tribe, and how District Attorney Buchanan has sent a letter to Cherokee Chief Hoskins expressing concerns over the effects of the McGirt law, particularly in this instance.

Mr. Bailey added that the Mayor, Police Chief and he will be sending Chief Hoskins a similar letter hoping for a meeting to discuss how the adverse effects of the McGirt law can be avoided in the future.

11. City Council Comments and Inquiries.

Vice Mayor Curd commended the leadership of the City, Mr. Bailey, who brought the Use Tax into fruition by gaining the support of Bartlesville businesses and organizations.

Vice Mayor Curd also addressed the Small Business Saturday proclamation and how small businesses such as his own appreciate all of the customers who were steadfast during and after the pandemic by staying local to shop and eat out.

Mayor Copeland stated his appreciation of the Use Tax Ordinance and how it levels the playing field for all businesses.

Mayor Copeland addressed the Extra Mile Day proclamation by thanking everyone who volunteers in our community. He added that former Mayor Lockin was the epitome of "going the extra mile" for Bartlesville.

12. There being no further business to address, Mayor Copeland adjourned the meeting at 7:50 p.m.


Dale W. Copeland, Mayor


Jason Muninger, CFO/City Clerk

