

**BROKEN ARROW CITY COUNCIL
MINUTES
COUNCIL CHAMBERS
220 SOUTH FIRST STREET
BROKEN ARROW, OKLAHOMA 74012
June 15, 2015**

6:30 PM

1. Call to Order

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

2. Invocation

Section Minutes: There was no one to deliver an invocation.

3. Roll Call

Present:	Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter and Craig Thurmond
Absent:	None

4. Pledge of Allegiance to the Flag

Section Minutes: Vice Mayor Richard Carter led the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

Section Minutes: Mayor Thurmond asked if there were any items to remove from the Consent Agenda. There being none, he asked for a motion.

Motion:	Move to approve the Consent Agenda as presented
Motion by:	Johnnie Parks
Second by:	Mike Lester
Ayes:	Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter and Craig Thurmond
Nays:	None

- A. Approval of meeting minutes of June 1, 2015
- B. Approval of Special Council meeting minutes of June 8, 2015
- C. Acceptance of the minutes of Planning Commission meeting held May 14, 2015
- D. Approval of and authorization to execute Budget Amendment Number 6 for Fiscal Year 2015
- E. Approval of the Payroll Schedule for Fiscal Year 2015-16
- F. Approval of Community Development Block Grant (CDBG) FY2015 Social Services Funding and approval of and authorization to execute contracts with those providers
- G. Approval to declare certain City owned vehicles and equipment as surplus and authorize the sale of those items by public auction
- H. Approval of and authorization to execute a contract with the Metropolitan Tulsa Transit Authority (Tulsa Transit) to provide public transportation services for Fiscal Year 2015-16
- I. Review of bids received, award of the lowest and best bid to Owasso Fence Company, and approval of and authorization to execute a construction contract for Public Safety Complex Fencing
- J. Award the most advantageous bid to Petroleum Traders and approve and authorize execution of a contract for the purchase of gasoline and diesel fuel
- K. Approval of bids received and award the most advantageous bid to Tiger Inc., and approval of and authorization to execute a contract for third party natural gas supply
- L. Approval of a Partial Vacation of Plat for 61st Street Industrial Park, an addition in the City of Broken Arrow, Tulsa County, Oklahoma (AG Equipment)
- M. Acceptance of a Drainage and Utility Easement on a platted portion of County Line Center, Lot 1, located on the northeast corner of Albany Street and 23rd Street, Wagoner County, Oklahoma; from owners American Southwest Properties, LLC and Memorial Drive, LLC
- N. Acceptance of a Sidewalk Easement that is a part of Lot 12 (Twelve) of Block 31 (Thirty-one) of the "ORIGINAL TOWN OF BROKEN ARROW," Tulsa County, State of

Oklahoma, from First United Methodist Church of Broken Arrow (Project: TIF 1 Downtown Main Streetscapes Phase III)

- O. Acceptance of a Utility Easement on a parcel belonging to Don and Mary Couch, on property located west of 23rd Street (County Line) and north of Houston Street, Broken Arrow, Tulsa County, State of Oklahoma (Section 12, T18N, R14E)
- P. Acceptance of a Utility Easement for property located approximately 24.75 feet south and 24.75 west of East 41st Street South (Dearborn Street) and South 161st East Avenue (Elm Place) intersection from Fair Oaks Ranch-Tulsa County, LLC., (Sec 27 T19N R14E) (Project # WL 1201) (Tulsa Waterline Connection)
- Q. Acceptance of a Utility Easement in Lot One (1), Block Nine (9), of Sunrise Estates, located one half mile north of Dearborn Street, on the east side of 37th Street (County Line) Broken Arrow, Wagoner County, State of Oklahoma (Section 20, T19N, R15E)(Sunrise Estates)
- R. Approval of BAZ 1936, Parker Property, 0.64 acres, R-3 to DM, northwest corner of Main Street and Knoxville Street
- S. Approval of PT05-106D, Conditional Final Plat, Wellstone III at Forest Ridge, 50 lots, 16.84 acres, R-1/PUD 66, one-quarter mile south of Kenosha Street, one-quarter mile east of Midway Road
- T. Approval of PT13-113, Conditional Final Plat, Washington Lane VII, 54 lots, 14.72 acres, R-2/PUD 135 A-H, one-quarter mile south of Washington Street, west of 9th Street
- U. Approval of PT15-104, Conditional Final Plat, Hardesty Center for Dance Education at Tulsa Ballet, 1 lot, 3.94 acres, CG to CG/PUD 237, south and east of the southeast corner of New Orleans Street and Aspen Avenue
- V. Approval of PT15-109, Conditional Final Plat, La Quinta at The Village at Stone Wood Hills, 2 lots, 1.47 acres, CH/PUD 156 to CH/PUD 156F, south of Albany Street, east of Elm Place
- W. Approval of the Claims List

6. Consideration of Items Removed from Consent Agenda

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

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

Section Minutes: There were no public hearings, appeals, presentations, recognitions, awards or oaths. No action was required or taken.

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)

Section Minutes: No citizens signed up to speak.

9. General Council Business

A. Consideration, discussion, and possible approval of BAZ 1937, Wal-Mart Neighborhood Market, 18.15 acres, A-1 to CG and FD, northeast corner of Dearborn Street and 23rd Street

Item Minutes: Assistant City Planner, Mr. Brent Murphy, said rezoning request BAZ 1937 involved 18.15 acres located on the northeast corner of Dearborn Street and 23rd Street. He said the property is unplatted and is currently zoned A-1. Mr. Murphy said that improvements would be made to Dearborn and 23rd Streets. He said part of the plat was located in the 100 year floodplain so that onsite stormwater detention would be required. He said the rezoning request to zone CG (commercial use) was in accordance with the Comprehensive Plan.

Councilor Johnnie Parks asked about the size and location of the stormwater detention structure. Mr. Murphy said that he believed the structure would be north of the store but deferred specific details to the developer.

Mayor Thurmond called upon the applicant to speak.

Attorney Mr. Lou Reynolds of Eller & Detrich, real estate and business law, representing the Walmart Corporation spoke to the Council. Mr. Reynolds gave details for the development of the twenty acre site describing it as a commercial neighborhood center. He said the transition between the commercial area and the residential area would include an eight foot screening fence and treed landscaping. He said the distance between the fencing and the building would be over two hundred and ten feet. He said there would be sidewalks and three accesses, one off of Dearborn and two off of the county line road. Mr. Reynolds gave details on the traffic study impact for the intersection and he said that Walmart would be funding the improvements which included left turn lanes and a traffic light.

Councilor Mike Lester asked about the rest of the property and the distance of future buildings to the residents on the east. Mr. Reynolds said that distance would be fifty feet. Mr. Lester asked about the nature of the trees to be planted there. Mr. Reynolds said at the time of planting the trees would be about eight feet and would include an eight foot screening fence. He added that Walmart would install these barriers for the entire development. Councilor Parks asked if that part of the development would be sold separately. Mr. Reynolds said that it would.

Councilor Scott Eudey asked how many jobs would be created by the development. Mr. Reynolds said about ninety jobs would be created.

Mayor Thurmond called upon citizens who had signed up to speak on the development.

Ms. Michele McArthur opposed based on traffic issues.

Mr. Bill McArthur opposed because he did not believe another Walmart was needed and because of traffic issues.

Ms. Kathleen Crockett opposed because Walmart would not attract new visitors or retail customers to Broken Arrow.

Mr. Frank Hagyari opposed because of extreme traffic issues.

Mr. Clarence Gray opposed because of the disturbance of wild life and traffic issues.

Mr. Allen Brokienicky opposed because the development would destroy the recreational value of the natural area behind the neighborhood and traffic.

Councilor Parks asked Mr. Brokienicky if he was aware that the property had been part of the City's Comprehensive Plan since 1997 and was slated for commercial development. He said that the Comprehensive Plan had been set forth as public information and he wanted the residents to know that it was available. Mr. Brokienicky said that he did not know about the plan.

Ms. Vickie Ary opposed because of traffic issues and she asked if the Council had already decided that it must be a Walmart. Mayor Thurmond said that the Council does not control who purchases private property. He said the Council does not control what type of business goes into to an area set aside for commercial development.

Ms. Paula Lewis opposed because it would disturb the community's natural life style. She objected to yet another Walmart. She asked if the residents would be billed for floodplain controls because of the development.

Councilor Lester said the developers were not allowed to build in the floodplain. He explained the previous assessment for funding from the residents of Steeple Chase to correct floodplain issues that arose when Broken Arrow annexed the neighborhood that did not meet Broken Arrow's standards. He said once flooding occurred in 2004 the City agreed to help pay for the changes to protect the neighborhood.

Ms. Debra Rummel opposed because of concerns for flooding. She said all of the berms that originally protected the neighborhood had been leveled by development. She objected to Walmart on principal.

Mr. Jon Rummel opposed because he did not want another abandoned Walmart building when Walmart's business plans change. He used the abandoned Walmart at 71st street and 193rd Street as an example. Councilor Mike Lester clarified that Walmart did not own that property and that their lease had run out.

Mr. Rick Lathrop opposed because of traffic and the quality of life issues. He made suggestions regarding turn lanes based on his experience.

Mr. Larbi Merzouk opposed because of the light pollution, noise pollution, and the traffic issues. He expressed extreme concern for the flooding potential. He also had concerns for Walmart abandoning the property.

Mr. Silas Magill opposed because he anticipated it would create lower property values and because he believed Walmart would eventually create crime issues.

Mr. Patty Wall was called but was not present.

Mr. Nello Gionta opposed because he said another grocery store was not needed and because it would create traffic and runoff issues.

Ms. Jan Smith opposed saying there were seven Walmart stores within a five mile radius and she had concerns about rising crime that she believed accompanied Walmart developments. Ms. Smith had issues with what she called the broken zoning policies of the City.

Mayor Thurmond said that the City does have a Comprehensive Plan and it is used as the guide for development and zoning. He said the Plan called for commercial nodes at locations near residential areas.

Ms. Vanessa Scott opposed because of the disturbance to a selected life style. She cited over-development, crime and traffic issues.

Ms. Tamara O'Meara opposed because of the disturbance of nature and quality of life. She cited concerns for excessive traffic and property values.

Mr. Bill Ward opposed Walmart's development and expressed his concern that they might abandon the location as they have in five other cited examples.

Mayor Thurmond told the gathering that the land owner had sold the plot of land. He said that the Council had no control of who makes a sale or who they sell their land to. He said the hearing being held was on the subject of zoning. He added that the drainage and other issues would have to be addressed through the platting process. He further explained that the Fifth Amendment of the Constitution allows property owners to develop property based on a Comprehensive Plan established by a community. He said that if the Council were to arbitrarily block the zoning the property owners would have the right to take the issue to court.

Mr. Jim Beavers, previous Chairman and current member of the Broken Arrow Economic Development Corporation, favored the zoning saying that the needed expansion of public safety developments in the form of four more Fire Stations would be manned and maintained through sales tax revenue alone. He said it was critical to look to Retail Partners that are willing to come to Broken Arrow without incentive.

Mr. Warren Unsicker, Vice President of Broken Arrow Economic Corporation, said he was present to offer a statement on behalf of Mr. Wes Smithwick, President and CEO of the Broken Arrow Chamber of Commerce. He read a statement encouraging Council to approve the zoning and hence the development to the economic benefit of the community of Broken Arrow.

Mr. Ted Cundiff, Chairman of the Economic Development Corporation, spoke in support of the zoning and subsequent Walmart development. He said Broken Arrow was a safe City through the efforts of both fire and police. Mr. Cundiff said it would take a lot of revenue to sustain these services.

Mayor Thurmond offered the applicant an opportunity to respond.

Mr. Reynolds said that the primary issue of concern, traffic, had been carefully considered by Walmart and it was believed that the issue would be dealt with. He said they were open to City staff's suggestions regarding design and platting. Mr. Reynolds said that his client would accept the run off from the Steeple Chase neighborhood and deal with the run off from the development with the retention pond. He agreed that there would be a halo of light but it would not be allowed to shine into anyone's windows. Mr. Reynolds closed by saying that the project was a good fit for the City's Comprehensive Plan. He requested that the Council approve the zoning change in accordance with the Planning Commission and City staff's recommendations.

Councilor Carter spoke to the gathering to address some of their concerns. He said that he had lived in Broken Arrow for sixty eight years and had witnessed many changes in that time. He said for those that are lamenting the changes planned for this plot as a change from a residential area to a commercial area, he reminded them that this was just a continuation in the evolution of the City that he had witnessed. Councilor Carter said his responsibility on the Council was to create economic opportunity for the citizens. He acknowledged the traffic and water concerns explaining that it was Council's responsibility to find the money to deal with the issues.

Councilor Parks ask if there was a PUD to go with the zoning of the property. Mr. Murphy replied that a PUD had not been turned in. He said the request had been for a straight CG zoning.

Mayor Thurmond explained that a PUD was Planned Unit Development which provides for flexibility in the use of the property that is being zoned.

Council asked specific questions about the development of the site.

Councilor Scott Eudey thanked the residents that came to Council with their concerns. He reminded the attendees that this zoning hearing was the beginning of the process and there were would be opportunity to address many of their concerns. Councilor Eudey said that he had taken an oath upon entering office to uphold the Constitution of the United States and the State of Oklahoma which were at the heart of the issues considered at the zoning hearing. He told the residents that the Council understood their feelings and their concerns and that as

they executed their responsibilities on the zoning issue they would bear in mind all that had been expressed at this hearing.

Motion:	Move to approve based on the Comprehensive Plan, the location of the property, and surrounding land uses, Staff recommends BAZ 1937 be approved subject to the property being platted. After the property is platted, portions that are located within the 100-year floodplain shall be designated as FD (Floodplain district) and portions located outside the 100-year floodplain shall be designated as CG (Commercial General District)
Motion by:	Mike Lester
Second by:	Richard Carter
Ayes:	Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter and Craig Thurmond
Nays:	None

- B. Consideration, possible approval and authorization to execute Resolution 880, a Resolution of the Broken Arrow City Council, adopting the Fiscal Year 2015-2016 Annual Budget for the City in accordance with the provisions of the Municipal Budget Act

Item Minutes: Acting City Manager, Mr. Russell Gale, told the Council that on May 12, 2015 the proposed Fiscal Year 2015-2016 budget had been presented at a special City Council meeting. He said the proposed budget included planned expenditures for all twenty five funds totaling \$174,148,273.00. Mr. Gale said that the total budget was approximately 7% larger than the 2015 Fiscal budget. He said on June 1, 2015 the Council held a public hearing to give the public an opportunity to comment on the budget, no changes were proposed at that hearing. Mr. Gale said the budget as presented was recommended by the staff for Council's approval.

Motion:	Move to approve Resolution 880 and authorize its execution
Motion by:	Scott Eudey
Second by:	Mike Lester
Ayes:	Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter and Craig Thurmond
Nays:	None

- C. Consideration, discussion and possible approval of and authorization to execute a Promotional License allowing the Rhema Bible Church to host the 2015 Rockets Over Rhema special event

Item Minutes: Director of Parks and Recreation, Mr. Scott Esmond, said that Rhema Bible Church had approached the City for approval of a Promotional License for their 2015 Rockets Over Rhema special event, now in its twelfth year. He said the event was scheduled to take place on Sunday, June 28, 2015 from 6:00 pm until approximately 11:30 pm. Mr. Esmond said the City would be asked to provide public safety support with services for traffic control, emergency onsite medical and street closures. He said the cost of support for the event was approximately \$10,000.00, but staff was asking for the Council's approval for this established community event.

Motion:	Move to approve the Promotional License and authorize its execution
Motion by:	Mike Lester
Second by:	Richard Carter
Ayes:	Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter and Craig Thurmond
Nays:	None

10. Preview Ordinances

- A. Consideration, discussion and possible preview of an ordinance closing a utility easement on property located on part of Lot Five (5), Block Three (3), Kenwood Hills Second Addition, an addition to the City of Broken Arrow, Oklahoma, generally located at one-quarter mile north of Kenosha Street and one-third mile west of Elm Place (Kenwood Hills Second Addition); repealing all ordinances to the contrary; and declaring an emergency
- B. Consideration, discussion and possible preview of an ordinance closing a utility easement on property located on part of Lot Six (6), Block Three (3), Kenwood Hills Second Addition, an addition to the City of Broken Arrow, Oklahoma, generally located at one-quarter mile north of Kenosha Street and one-third mile west of Elm Place (Kenwood Hills Second Addition); repealing all ordinances to the contrary; and declaring an emergency

Item Minutes: Councilor Parks said that this property was close to his home so he would abstain from the discussion and the vote. Council agreed to hear 10A and 10B and take one vote.

City Attorney, Ms. Beth Anne Wilkening, said Mr. James Hoffmeister, the owner of the property, had requested the vacation of a five foot Utility Easement; he has plans for

purchasing the adjacent lot to the north for personal use. She said 10B was a request for a second Utility Easement closing for the same requester.

Motion:	Move to preview both Ordinances and set for adoption
Motion by:	Mike Lester
Second by:	Scott Eudey
Ayes:	Scott Eudey, Mike Lester, Richard Carter and Craig Thurmond
Nays:	None
Abstain:	Johnnie Parks

11. Ordinances

- A. Consideration, discussion, and possible adoption of Ordinance No. 3350, an Ordinance repealing Chapter 7 of the Broken Arrow Code, Article IX, Ambulances, Division 1, Generally, Section 7-211, Ambulance service charges;, repealing all ordinances to the contrary; and declaring an emergency

Item Minutes: Ms. Wilkening told the Council that this Ordinance repealed Chapter 7-211 of the Broken Arrow Code regarding the ambulance service charges. She said that the reason this part of the code needed to be repealed was that a completely new section of the code was being created to provide for a subscription service and that parts of the Code that deal with special events would be incorporated into the section of the code that is relevant to the Fire Department.

Motion:	Move to adopt Ordinance No. 3350
Motion by:	Scott Eudey
Second by:	Mike Lester
Ayes:	Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter and Craig Thurmond
Nays:	None

Motion:	Move to approve the emergency clause
Motion by:	Mike Lester
Second by:	Richard Carter
Ayes:	Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter and Craig Thurmond
Nays:	None

- B. Consideration, discussion, and possible adoption of Ordinance No. 3351, an ordinance adding a new chapter to the City of Broken Arrow Code of Ordinances, Chapter 26, Emergency Medical Services, including sections set forth as follows: Section 26-1, Establishment of a Medical Service Program, Section 26-2 Definitions, Section 26-3 Medical Services Program and Fee, Section 26-4 Nonparticipation election, Section 26-5 Collection of Medical Service Program Fees, Section 26-6 Adjustment of charges and appeals, Section 26-7, Persons not covered by the Medical Service Program, Section 26-8 Insurance Provision, Subrogation and Assignment, Section 26-9 Limitation of obligation of City, and Section 26-10 Penalty; repealing all ordinances to the contrary; and declaring an emergency

Item Minutes: Ms. Wilkening said that she had given great detail at the last Council meeting for this Ordinance and she said she would be happy to repeat the information if the Council so desired. She said it remained unchanged and established the medical program to be known as Life Ride. She said it also established the medical program fees setting forth all details and definitions for the Director of Finance. She said that the fees would be entered in the Manual of Fees that would be presented to the Council in the form of a Resolution at the next Council meeting. Ms. Wilkening highlighted the features and execution of the program. She said that the Acting City Manager and the Director of Communications, Ms. Krista Flasch, agreed that it was important to retain the services of a Public Relations Firm to educate the public on the program.

Mayor Thurmond noted that no citizens had appeared to speak in opposition to the Ordinance.

Councilor Parks asked for clarification about fees charged to single family residents that are both outside the City limits but inside the corporate limits. Mr. Gale explained that those that have City utilities would be able to pay a monthly fee of \$7.50 with their bill and those without utility service would pay a onetime annual fee of \$90.00 if they wish to participate.

Councilor Parks then asked about the annual fee of \$65.00 for residents of nursing homes. Ms. Wilkening clarified that fee would be charged for each individual.

Motion:	Move to approve Ordinance No. 3351
Motion by:	Richard Carter
Second by:	Scott Eudey
Ayes:	Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter and Craig Thurmond

Nays:	None
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Motion:	Move to approve the emergency clause
Motion by:	Johnnie Parks
Second by:	Mike Lester
Ayes:	Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter and Craig Thurmond
Nays:	None

12. Remarks and Inquiries by Governing Body Members

Section Minutes: There were no remarks and inquiries by Governing Body Members.

13. Remarks by Acting City Manager

Section Minutes: There were no remarks by Acting City Manager.

14. Executive Session

Section Minutes: There was no Executive Session. No action was required or taken.

15. Adjournment

Section Minutes: The meeting adjourned at approximately 8:19 p.m.

Motion:	Move to adjourn
Motion by:	Mike Lester
Second by:	Richard Carter
Ayes:	Mike Lester, Richard Carter, Craig Thurmond, Johnnie Parks, Scott Eudey
Nays:	None

Attest:

Mayor

City Clerk