



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, February 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 delivered by 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 Johnnie Parks led the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

Mayor Thurmond asked if there were other items to be removed from the Consent Agenda. There were none.

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

Move to approve Consent Agenda

The motion carried by the following vote:

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

- A. 18-101** Approval of City Council Meeting Minutes of February 6, 2018
- B. 18-264** Approval of AMENDED City Council Meeting Minutes of January 16, 2018
- C. 18-282** Approval of and authorization to execute Resolution No. 1090 requesting programming of Federal Fiscal Year (FFY) 2021 Surface Transportation Program (STP) funds for Washington Street Widening from Garnett Road to Olive Avenue
- D. 18-292** Approval of and authorization to execute a Professional Consultant Services Contract with Destination Services, LLC to continue the implementation of the Strategic Plan for the Convention and Visitors' Bureau
- E. 18-284** Approval of and authorization to execute a Professional Consultant Agreement with Flynt & Kallenberger, Inc. for design of Fire Station No. 2 Heating, Ventilation, and Air Conditioning (HVAC) Investigation and Renovation (Project No. 183512)
- F. 18-280** Approval of and authorization to execute Amendment No. 2 to a Professional Consultant Agreement with Olsson Associates for Design of a Broken Arrow Industrial Collector Street and Water Line Extension (Project No. ED1701)
- G. 18-267** Approval of bids received and award the most advantageous bid to Yamaha Golf Cars for the purchase of (72) Yamaha Drive 2 electric golf carts with geographical positioning system (GPS), (1) range utility cart, (1) refreshment cart, and (1) all-purpose utility cart, for Battle Creek Golf Club, and declare the current golf cart fleet at Battle Creek Golf Club consisting of (72) electric golf carts and (2) utility carts surplus and approve Budget Amendment No. 3
- H. 18-299** Approval of and authorization to execute Work Order WO-08, Contract for Cold Milling Asphalt Streets (Bid # 16.141) for the repair of asphalt streets of Lancaster Park I & II, Phase II
- I. 18-265** Acceptance of a Corrected Deed of Dedication from Nathan Lovelle and Kimberly Lovelle on property located one-eighth mile north of New Orleans Street, west of 9th Street, Tulsa County, State of Oklahoma, (Section 23, T18N, R14E)
- J. 18-266** Acceptance of a Corrected Utility Easement from Nathan Lovelle and Kimberly Lovelle on property located one-eighth mile north of New Orleans Street, west of 9th Street, Tulsa County, State of Oklahoma, (Section 23, T18N, R14E)
- K. 18-13** Approval of the Broken Arrow City Council Claims List for February 20, 2018

6. Consideration of Items Removed from Consent Agenda

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

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

A. 18-287 **Recognition of the 2017 City of Broken Arrow University (COBA-U) Participants**

Human Resources Director, Jannette McCormick, stated she was pleased to recognize the 2017 COBA-U Participants. She reported the COBA-U program was established in February of 2017 as a pilot training program for employees citywide. She explained there were 45 participants, divided into three classes, and each class contained a representative from each department. She reported in order to participate, employees were required to complete an online application and the department directors recommended applicants to the City Manager for final selection. She stated the instructors consisted of Department Directors and key staff members. She commended the instructors for dedication shown and a job well done. She reported program goals included creation of an educated and informed workforce, assistance with session planning and fostered relationships between departments. She stated when the program concluded in January 2018 each class indicated the relationships developed with fellow interdepartmental coworkers were of highest value; therefore, she felt the program was a success. Ms. McCormick recognized and commended the program participants.

B. 18-307 **Presentation and discussion on ShamRock the Rose Event for Soldier's Wish**

City Attorney, Beth Anne Childs, stated on December 21 Council Member Wimpee, on behalf of BA Buzz and Soldier's Wish, submitted a special event permit application for an event titled ShamRock the Rose which was scheduled for March 10, 2018. She reported at the time of submittal the City of Broken Arrow had an existing application on file for the same date; however, it had since been withdrawn. She reported when the application for ShamRock the Rose was submitted she was concerned about potential violations of state law; therefore, she thoroughly reviewed the applicable state laws.

Ms. Childs explained that one of the statutes that's reviewed during the newly elected officials training as well as the internal training is Title 11, Section 8-113 of the Oklahoma Statutes. It very clearly addresses conflicts of interest. It provides that "except as otherwise provided by this section, no municipal officer or employee or any business in which the officer, employee, or spouse of the officer or employee has proprietary interest, shall engage in: 1) Selling, buying or leasing property, real or personal, to or from the municipality; 2) Contracting with the municipality..." Ms. Childs stated she reached out to Margaret McMorrow-Love, a well-established attorney in Oklahoma City to assist in reviewing the state statutes and after having follow up discussions, both agreed that it does constitute a contract if you do receive a special events permit due to the criteria and expectations that have to be met.

Ms. Childs reported she met with City Manager, Michael Spurgeon, and Council Member Wimpee and discussed the implications involved with permit approval with statutory restrictions, possible conflicts of interest, which are addressed in the Oklahoma Constitution. Article 10, Section 11 provides that "a Council Member cannot receive, directly or indirectly, any interest, profit or perquisite arising from the use or loan of public funds or moneys..." She stated she met again with Ms. McMorrow-Love and also reviewed a series of Attorney General's Opinions. She reported the conclusion drawn was this was a felony, sort of like a violation of the Open Meeting Act, it just doesn't result in contracts being voided, it was penal in nature, so not only is there a possibility of committing a felony, you can be forever barred from holding office. She stated a new application was subsequently submitted by Soldier's Wish, but there was still some concern as Ms. Wimpee's company and name were still listed on the application. She reported she reached out to Ms. Wimpee's representation, Mr. Gray, for discussion and organized a meeting with herself, Ms. Wimpee, Mr. Gray, Mr. Spurgeon and Mr. Johnnie Parks, who she believed, based upon his years and years of service with the city and as a business owner himself, could provide insight and additional perspective on this event.

Ms. Childs explained she was attempting to find a way to say yes to this event. She explained this was a great event, had thousands of attendees, provided for an outstanding charity, and benefitted many individuals; however, she had to be certain no laws were broken in the process. She explained she was presenting this information to Council for reasons of transparency. She stated the meeting's conclusion was action steps that would be required to insulate Ms. Wimpee, Mr. Spurgeon and the City Council, and to ensure Ms. Wimpee's volunteer role was clearly understood; these steps included: 1) Soldier's Wish would withdraw the application submitted February 11 and 2) would submit a new application for the special event clarifying it was the entity in charge of ShamRock the Rose and would be responsible for the entire event including lease of pavilion, closure of streets, approval to have the event, permits, receipt and expenditure of all funds. 3) Soldier's Wish would enter into a contract with BA Buzz to promote the event on a volunteer basis. 4) Counselor Wimpee and BA Buzz would not be identified on the promotional materials except to the extent that it referenced information on the event located on BA Buzz's website. 5) Following the event Ms. Wimpee's attorneys would review all expenditures to ensure there was no profit or benefit to her to provide an additional level of scrutiny.

Ms. Childs stated this was a Presentation item and the approval of the special event permit was at the City Manager's level. She stated her legal opinion was if all the above conditions were met then City Manager had the legal ability to approve the special event permit.

Ms. Childs explained that the state law specified elected officials and city employees could not lease city property, could not enter into a contract with the city, and could not receive a benefit as a result of city services or utilization of city property. Strict construction of the law is in place and if all these conditions are met, the city could legally move forward with this event. Ms. Childs introduced Attorney Steven Gray, former Assistant City Attorney in Tulsa, whom she had worked with for many years. She stated she appreciated his professionalism and willingness to work with her regarding this issue.

Mr. Steven Gray thanked Ms. Childs for the introduction and commented he appreciated her professionalism; he felt Ms. Childs was an excellent and effective attorney. He presented Council and Ms. Childs with a copy of the revised application which he stated he believed would be approved by all. He stated he believed Ms. Wimpee held no ill intentions with regard to this event. He reported she had gone to great lengths to remove herself completely from the permit, remove all advertising of the ShamRock the Rose Event that displayed her logo or information. He reported she did enter into a Limited Agency Agreement between herself and Soldier's Wish, which he did not get a chance to thoroughly review yet. He reported all checks received by BA Buzz related to ShamRock had been given to Soldier's Wish and Ms. Wimpee had not benefitted or profited from this in any way. He stated Ms. Childs and Ms. Wimpee both had honorable intentions to do right by City Council, by the citizens of Broken Arrow, by the vets, and by the law. He asked if there were any questions.

Council Member Parks asked if Mr. Gray felt Council Member Wimpee had met the requirements set forth by Ms. Childs. Mr. Gray responded in the affirmative; she had met all requirements. He mentioned the Limited Agency Agreement, at a cursory glance, seems to indicate it as well, but he stated if City Council or the City Attorney had further concerns he would be happy to address and satisfy said concerns.

Council Member Parks stated he pushed for this presentation to be made at the City Council Meeting because he felt transparency was in order. He stated he wanted to be certain the city understood exactly what had occurred and what had been discussed. He stated as a veteran he would be disappointed if the event did not take place as it supported Soldier's Wish, but in defense of City Attorney Childs and staff, it would be unwise to go asunder of State law; therefore, it was ultimately up to City Attorney Childs to allow the application be submitted to City Manager Spurgeon for approval.

Mr. Gray stated he and Ms. Wimpee would do whatever was needed to satisfy City Attorney Childs. He stated he appreciated the transparency and openness of the Broken Arrow Governing Body. He commended City Attorney Childs for her work in this matter. He stated Ms. Wimpee indicated that she was willing to completely remove herself from the Limited Agency Agreement in order to ensure the ShamRock the Rose Event was approved.

City Manager Spurgeon thanked Mr. Gray and stated he had a couple of reservations about the Limited Agency Agreement and asked Mr. Gray to contact Ms. Childs in this regard. City Manager Spurgeon stated he wanted to be able to issue the permit prior to the end of the week and hoped his reservations could be cleared before then. Mr. Gray stated he would be happy to make himself available to Ms. Childs whenever she desired to iron out the final details. He thanked City Council for its service.

Citizen Richard Stewart stated his address was 14327 S. 52nd East Avenue. He stated he was in attendance in support of Ms. Debra Wimpee. He reported he moved to Broken Arrow in 1992 and loved the city, his daughter had attended Summit Christian Academy from 2001 until 2014, and he was a member of the Broken Arrow Military Museum, as well as a frequent Rotary Club visitor. He stated he attended his first ShamRock event 4 years ago and he felt the ShamRock event set the bar for every other downtown event in Oklahoma. He stated he knew Ms. Wimpee and Ms. Wimpee cared about the Community of Broken Arrow and cared about the soldiers. He stated Ms. Wimpee consistently demonstrated integrity above reproach, loved the community and desired to see Downtown thrive. He stated the Rotary Club's ideals were: was it the truth, was it fair to all concerned, would it build goodwill and friendships, and would it be beneficial to all concerned. He stated he hoped City Council would keep these ideals in mind and he hoped in future conflicts City Council would be as vigilant in its scrutiny as it was today. He thanked City Council for its time and service to Broken Arrow.

Citizen David Barnes stated his address was 605 East Pensacola. He stated he was a proud Broken Arrow resident and a proud Broken Arrow business owner. He reported he was not a frequent attendee, but after watching the meeting he appreciated the Council's efforts to prevent possible negativity from arising. He stated he was certain Ms. Wimpee had no ill intentions and he appreciated Council for being diligent in making certain this was understood. He stated Ms. Debra Wimpee lived and breathed Broken Arrow, was proud to be a lifelong resident of Broken Arrow, proud to be a part of building Broken Arrow, and proud of what it would become. He stated Ms. Wimpee lived to help others, was selfless for Broken Arrow, for the residents of Broken Arrow, for Soldier's Wish, and for veterans. He stated he became a sponsor of ShamRock because of Ms. Wimpee, because of his love for Broken Arrow and to help support veterans. He stated he wanted it to be known Ms. Wimpee had a pure heart in this endeavor.

He thanked City Council.

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)

Mayor Thurmond stated no citizen had signed up to address the Council.

9. General Council Business

A. 18-286 Consideration, discussion, possible approval of and authorization to execute the Fiscal Year 2017-18 Collective Bargaining Agreement with the International Association of Firefighters Local #2551

Ms. Jannette McCormick reported the city's negotiation team began contract negotiations in March of 2017 with the International Association of Firefighters Local #2551 for the FY 2017-18 labor agreement. She reported on January 17, 2018 the bargaining teams reached a tentative agreement and on January 26, 2018 the Union President advised the local membership had ratified the proposed agreement. She reported the agreement provided for the following changes: administrative revisions to the grievance procedure and compensation articles, increased the number of shift employees eligible to schedule vacation from 7 to 8 if the number of suppression operational personnel exceeded 49 on any shift as of December 1 of each year, increased the monthly vacation hour accrual for employees with 15 to 17 years of service, increased the city's contribution to the Union's insurance plan by 2%, provided revisions to the administrative operating procedures, uniforms, minimum staffing, officer development, digital imaging, and memorandum book subjects, increased base wages by 2% for all bargaining Union Members effective July 1, 2017, with an additional 2% base wage increase effective January 1, 2018. She stated staff recommended Council approve the agreement and authorize its execution. She asked if there were questions. There were none.

MOTION: A motion was made by Mike Lester, seconded by Debra Wimpee,
Move to approve the Collective Bargaining Agreement with the International Association of Firefighters Local #2551 for Fiscal Year 2017-18 and authorization its execution

The motion carried by the following vote:

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

B. 18-291 Consideration, discussion, and possible approval of and authorization to execute the Professional Services Agreement with Catalyst Commercial for assisting the City in revitalization strategy of the Elm and New Orleans area

Mr. Farhad Daroga stated this item pertained to the revitalization study and proposal for the Elm and New Orleans area. He reported in November 2017 a Request for Proposal (RFP) was submitted, three bids were received, and Catalyst Commercial was selected. He reported Catalyst Commercial was based out of Dallas and was part of the Comprehensive Plan Team hired through Half and Associates. He explained for this specific project Catalyst would be utilizing ADG, the consulting firm out of Oklahoma City that had assisted Broken Arrow prepare the DROD plan for Downtown in 2017.

Catalyst Commercial President and Founder, Jason Claunch, stated he was honored to be currently engaged in the Comprehensive Plan process. He stated he felt the Elm/New Orleans project created an opportunity to develop a model which could be utilized across the city in terms of the strategic planning currently being considered through the Comprehensive Planning process. He stated Catalyst had extensive experience in revitalization and redevelopment, understood the importance of Community involvement during this process, understood the value of sales tax in Broken Arrow's local economy and planned to create opportunities for reinvestment in the intersection that was meaningful for the Community of Broken Arrow. He asked if there were any questions. There were none.

MOTION: A motion was made by Johnnie Parks, seconded by Scott Eudey.
Move to approve the Professional Services Agreement with Catalyst Commercial for small area plan and revitalization strategy of the Elm and New Orleans area

The motion carried by the following vote:

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

C. 18-256 Consideration, discussion, and possible approval of Resolution No. 1082, a Resolution of the City Council of the City of Broken Arrow authorizing initiation of an action for Declaratory Relief against Henry and Vestina Hanewinkel, Brown and Perkins, LLC, and other necessary and appropriate Defendants regarding what zoning classification should be applied to a tract of land consisting of 19.64 acres of land located east of North Elm Avenue, and One-Quarter mile south of Omaha Street in Broken Arrow, Tulsa County, State of Oklahoma, and potentially challenging the requirements of Okla. Stat. tit. 11, § 14-102

Mayor Craig Thurmond stated he had a conflict with this item and turned the item over to Council Member Lester. Mayor Thurmond and Vice Mayor Eudey stepped out of the room for the duration of item discussion and vote at approximately 7:07 p.m.

City Attorney Childs asked for this item to be tabled until after Executive Session.

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

Move to table Item C until after the Executive Session

The motion carried by the following vote:

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

Mayor Thurmond and Vice Mayor Eudey returned to the room at approximately 7:08 p.m.

D. 18-276 Consideration, discussion, and possible approval of Resolution No. 1088, a Resolution of Necessity to Condemn Property located in the SE/4 of Section 12, T-18-N, R-14-E of the Indian Meridian, Tulsa County, State of Oklahoma, for the 23rd Street, Houston to Kenosha, Widening Project (Project No. ST0914)

Engineering Director Alex Mills stated this item was a request for approval of a Resolution of Necessity to Condemn a piece of property for the 23rd Street Roadway Project. He explained the third party right of way agent, Universal Field Services, had unsuccessfully tried to negotiate a price for this property. He stated a full appraisal price of \$18,885 dollars was offered and was rejected by the property owner. He reported Broken Arrow would be responsible for 20% of the purchase price and ODOT for 80%; however, no agreed upon price had been reached. He stated staff recommended approval of Resolution No. 1088. He asked if there were questions. Council Member Parks asked if the condemnation would delay the project. Mr. Mills responded in the negative.

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

Move to approve and authorize execution of Resolution No. 1088

The motion carried by the following vote:

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

E. 18-296 Consideration, discussion, and possible approval of and authorization to execute Resolution No. 1089, a Resolution confirming the supplementation and publication of the City of Broken Arrow's Code of Ordinances

City Attorney Childs reported this provided notification and publication of City or Broken Arrow Code of Ordinances. She stated staff requested approval and authorization of Resolution No 1089.

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

Move to approve and authorize execution of Resolution No. 1089

The motion carried by the following vote:

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

F. 18-261 Consideration, discussion, and possible approval of PUD (Planned Unit Development) 271 and BAZ-1994, Bill Knight Collision, 2.74 acres, CH, north of Kenosha Street, west of 9th Street

Plan Development Manager for Development Services, Larry Curtis, reported Planned Unit Development (PUD) 271 and BAZ-1994 involved a 2.74 acres undeveloped tract located north of Kenosha Street and west of 6th Street. He reported the applicant requested a portion of the site, 1.96 acres, be rezoned from CH, Commercial Heavy, to IL, Industrial Light, and that PUD 271 be approved for the entire site. He stated the applicant for BAZ-1994 requested that the zoning designation for 1.96 acres of the 2.74 acres along the west and north side of the site be amended from CH to IL to accommodate an automotive major repair business, Bill Knight Collision; the remainder of the site would remain CH in anticipation for future use by a potential restaurant facility. He stated the primary deviations associated with the PUD included reduced rear setback along the northern portion of the property and a proposed 6 foot wide internal landscape border, reduced from the 10 foot requirement as standard by zoning code. He reported the property was designated level 6 in the Comprehensive Plan, and while IL zoning was considered in conformance with the Comprehensive Plan, Council had expressed concern about major vehicular car lots and car repair facilities along Kenosha from Elm to Lynn Lane. He reported automotive facilities which occurred along the stretch in recent years had been approved through an ordinance which required a minimum of 2.5 acres. He reported the property associated with PUD 271 and BAZ-1994 would require replatting and access was proposed via an existing driveway along Kenosha Street which was utilized by Andy's Custard and would require a mutual access easement. He stated in the Planning Commission Meeting on January 25, 2018 the Commission recommended approval by a vote of 3 to 0 of PUD 271 and BAZ-1994 subject to conditions 2 through 7 in the recommended staff report, but struck condition 1 which stated that the site plan shall be modified so that the IL use is located in the rear site and that CH use is located in the front site along Kenosha Street. Applicant was not in agreement with the staff recommendation to rotate the site plans. Planning Commission at the time concurred with the applicant and supported the proposed site plan. He stated staff requested Council approve PUD 271 and BAZ-1994 as recommended by Planning Commission. He asked if there were questions.

Council Member Parks asked if the southeast corner portion of the property was designated for a future restaurant. Mr. Curtis responded in the affirmative. He reported the property would be replatted into two separate lots. The southwest side would be for the Collision Center and the remainder lot would be for the proposed restaurant. Discussion ensued regarding access driveways, easement, traffic flow on property, Vice Mayor Eudey asked if this design was not what the city staff had recommended. Mr. Curtis explained that the area along Kenosha Street has been historically an older area with older uses of property, most notably car lots and car repair facilities.

Staff has been actively trying to improve this area as a part of the development, so this type of request was not in line with previous actions by Council, which is why it was suggested to rotate the facility. Vice Mayor Eudey stated that his understanding was to beautify and improve this road with focus on restaurants and retail shops. Mr. Curtis replied in the affirmative.

Mr. Malek Elkhoury, with Khoury Engineering, the applicant was there to represent Mr. Bill Knight, who he introduced.

Mr. Bill Knight stated his address was 5015 East 118 Place. He stated he currently owned the service shop located on South Memorial behind the Ford Dealership and had calculated in 2017 approximately 3.5 million dollars of his business emanated from people who had Broken Arrow addresses and he felt opening at the proposed Broken Arrow location would add convenience to his existing Broken Arrow customers and bring that money back into the city. He stated he had received two proposals from restaurants interested in building on the proposed small site, one a fast food restaurant and one a fast food casual restaurant and he was currently in conversation with the Planning Commission in this regard. Mr. Knight spoke to the issue about rotating the building, he felt that he could very well find a piece of commercial property with no frontage, so to him this became a non-starter if his repair facility were to be hidden. He stated he felt he could bring a successful business to Broken Arrow, given he had existing clients in Broken Arrow and the interest shown in the portion of the property proposed for restaurant use. He stated he was excited about the possibilities.

Council Member Lester asked if positioning the doors to the back of the property could be a consideration. Mr. Knight responded the option given him was to rotate the entire site putting his business on the back portion of the property which would eliminate visibility of his business on Kenosha. Vice Mayor Eudey stated he struggled with approval of this PUD as it would be establishing a precedent Broken Arrow had been trying to move away from; building car service type businesses along this portion of Kenosha. Mr. Malek Elkhoury, the applicant, stated the business front facing Kenosha did not have the appearance of a collision or auto body shop; it was designed to look retail. He stated the architect planned additional modifications of the west elevation fronting 6th street to include additional masonry and landscaping. Mr. Knight stated the building was air conditioned; therefore, the bay doors would be kept closed and the fencing was designed to hide wrecked vehicles on location. He stated with the aid of Mr. Elkhoury a great effort had been made to design a business which was pleasing visually.

Discussion ensued regarding repositioning the lot sites to move the business onto the back of the property, reasons why this was acceptable and desirable to Council, and reasons why it was unacceptable to Mr. Knight. Mr. Malek Khoury stated it had been suggested to the Planning Commission to leave the front 30 feet of the property zoned CH where Mr. Knight would place his offices. He reported the Planning Commission did not feel this was necessary; however, he and Mr. Knight were willing to build in this way if it was preferred. Mr. Curtis stated while the zoning would stay the same the use would still be a collision center and this was the difficulty. Vice Mayor Eudey agreed and stated he would be more comfortable if Mr. Knight's business was located at the back of the property which would be consistent with the look and feel Broken Arrow was attempting to establish on Kenosha. Mr. Knight stated in regards to the success of his business behind the Ford Dealership, the new location would be half the size of the current location which had to be taken into consideration in terms of traffic and activity. Council Member Lester stated Mr. Knight was already a branded business and he agreed with Vice Mayor Eudey; he felt Mr. Knight would be successful in Broken Arrow without full visibility from Kenosha.

Council Member Parks stated he was worried if the building was moved to the back of the property the parking would be moved to the front. He stated he liked the look of the current proposed building and he did not want cars in disrepair parked out front. Mr. Curtis stated Mr. Knight intended to build a masonry fence surrounding the area that housed wrecked cars. Council Member Lester agreed he liked the look of the building as well; however, Council was attempting to make Kenosha a more retail focused area rather than service. Mr. Knight stated his facility on South Memorial abutted a housing development; therefore he was used to being quiet and particular about what the facility looked like inside and out. He stated he understood the importance of being presentable and felt Broken Arrow would be proud to have his business along Kenosha. Council Member Lester asked if the bay doors had windows. Mr. Knight responded in the negative.

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

Move to approve PUD 271 and BAZ-1994 as recommended by the Planning Commission

The motion carried by the following vote:

Aye: 4 - Debra Wimpee, Johnnie Parks, Mike Lester, Craig Thurmond
Nay: 1 - Scott Eudey

G. 18-268 Consideration, discussion, and possible approval of PUD (Planned Unit Development) 272, Restore House 0.64 acres, DM to PUD-272/DM, on the northwest corner of West Knoxville Street and South Main Street

Mr. Larry Curtis reported the applicant proposed to use the existing building and structure as an outdoor event facility. He stated the proposed Restore House would provide a casual place which offered a comfortable space for weddings, parties, gatherings and photographers. He stated

facilities used primarily as event centers were categorized as a place of assembly and were allowed by right in ON (Office Neighborhood) zoning districts or by specific use permit within all agricultural, residential, mixed use and commercial office zoning districts. He reported the proposed Restore House met all but one of the requirements of a specific use permit, having less than a lot area of 2 acres; however, instead of a specific use permit the applicant had submitted a PUD. He stated no new buildings were proposed and the existing building would be used. He stated PUD 272 stated the hours would be from 8 AM until 10 PM, customers who rented the venue would rent for specific time slots per contract, and in compliance with city noise ordinance the customer was required to acknowledge the Ordinance and all noise must end by 10 PM. He reported the property associated with PUD 272 was designated as level 5 in the Comprehensive Plan which stated conservation, preservation and redevelopment was encouraged in level 5; with PUD 272 the applicant was making an effort to preserve the existing structure on the property; therefore, the development proposed with PUD 272 was in accordance with the Comprehensive Plan. He stated the Planning Commission recommended a conditional approval by a vote of 4 to 0 of PUD 272 subject to the conditions of approval indicated in the Planning Staff Report. He stated staff recommended approval of PUD 272 per Planning Commission recommendations. He asked if there were questions.

City Manager Michael Spurgeon stated a few months ago several citizens expressed concerns about Restore House which prompted City Staff to contact the owners of Restore House who had been cooperative in addressing noise and compliance issues. He stated he recommended Council approve PUD 272 as he felt Restore House was a good business and was very responsive to directives from city staff. Mayor Thurmond stated this new location for Restore House could solve the prior issues. Vice Mayor Eudey agreed.

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

Move to approve PUD 272 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

H. 18-269 Consideration, discussion, and possible action regarding PUD (Planned Unit Development) 270, Rose Event Center 0.48 acres, DM to PUD-270/DM, between Indianola Street and Jackson Street along South Main Street

Mr. Larry Curtis reported the applicant proposed to use the existing building for an indoor event facility. He reported the proposed Rose Event Center would provide a venue for weddings, receptions, class reunions, family reunions, birthdays, anniversaries, etc. He stated facilities used primarily as event centers were categorized as a place of assembly and were allowed by right in ON (Office Neighborhood) zoning districts or by specific use permit within all agricultural, residential, mixed use and commercial office zoning districts. He reported the proposed Rose Event Center met all but one of the requirements of a specific use permit, having less than a lot area of 2 acres; however, instead of a specific use permit the applicant had submitted a PUD. He reported the property associated with PUD 270 was designated as level 5 in the Comprehensive Plan which stated conservation, preservation and redevelopment was encouraged in level 5; with PUD 270 the applicant was making an effort to preserve the existing structure on the property; therefore, the development proposed with PUD 270 was in accordance with the Comprehensive Plan. He stated the applicant suggested an 8 foot fence could be built along the abutting residential district if necessary and in addition PUD 270 indicated no outdoor music would be allowed on premise and hours would be limited to 2 AM unless there was a lock-in party. He stated the Planning Commission recommended a conditional approval by a vote of 4 to 0 of PUD 270 subject to the conditions of approval included in the Planning Commission Fact Sheet. He reported two citizens spoke against the item and voiced concerns about parking, trash on site, and loud noises from various events in the past. He stated staff recommended approval of PUD 270 per Planning Commission recommendations. He asked if there were questions.

Mayor Thurmond stated this sounded like it would solve some of the past issues. Vice Mayor Eudey stated he noted the Fact Sheet indicated a 6 foot or 8 foot fence and asked which it was. Mr. Curtis stated staff recommended an 8 foot fence. Council Member Wimpee asked if the fence would enclose the back of the property in its entirety. Mr. Curtis responded in the affirmative, if it was the desire of the Council. Vice Mayor Eudey stated he was concerned about the 2 AM timeframe as indoor facilities could produce large amounts of noise which could be a disturbance. Mr. Curtis stated through the PUD process Council could limit the time that events were held within the facility. Mayor Thurmond stated there was a Noise Ordinance in the area and noise complaints after 10 PM would constitute a citation. Council Member Lester asked if the previous concerns had been addressed. Mr. Curtis responded in the affirmative.

City Manager Spurgeon thanked Michael Skates, his staff, and the Chief of Police for the community relations developed with this Event Center. He stated the Event Center had serious matters which needed investigation and he applauded the Chief for his efforts to make the Event Center understand the importance of being a good neighbor. He stated he recommended approval of the PUD, and while he understood the Vice Mayor's concerns the Event Center had shown great cooperation in addressing the previous complaints.

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

Move to approve PUD 270 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

I. 18-298 Consideration, discussion, and possible approval of the appointment of Pablo Aguirre to the City of Broken Arrow Planning Commission to replace Carlyne Isbell-Carr for the remainder of a three-year term to expire May 1, 2018

Mr. Larry Curtis stated Carlyne Isbell-Carr had served the Planning Commission well over the years, but needed to step down; therefore a replacement was required. He stated Mayor Thurmond and Council Member Lester suggested Council appoint Pablo Aguirre to the Planning Commission. He reported Mr. Aguirre has served on the Board of Adjustment for one year and was interested in continued service to the community. He reported Mr. Aguirre had a Bachelor's Degree from Oklahoma State University and had a history of working with other community volunteer organizations. He stated this action would remove Mr. Aguirre from the Board of Adjustment and appoint him onto the Planning Commission for the remainder of Ms. Carr's tenure which would expire May 1, 2018; at that time Mr. Aguirre could be reappointed to the Planning Commission.

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

Move to approve the appointment of Pablo Aguirre to the serve on the City of Broken Arrow Planning Commission for the remainder of a three-year term to expire May 1, 2018

The motion carried by the following vote:

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

10. Preview Ordinances

There were no Preview Ordinances.

11. Ordinances

A. 18-221 Consideration, discussion, and possible adoption of Ordinance No. 3507, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving portions of BAZ 1655, BAZ 1827, and BAZ 1904, generally located north of Omaha Street, one-quarter mile west of 27th Street, granting a RS-3 zoning classification be placed upon the tract along with PUD 225, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency

City Attorney Beth Anne Childs stated Items A through E were routine matters, ordinances required to finalize zoning. She stated Council had been fully briefed on each previously. She stated staff recommended adoption of items A through E separately and approval of the individual emergency clauses.

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

Move to adopt Ordinance No. 3507

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 approve the emergency clause

The motion carried by the following vote:

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

B. 18-247 Consideration, discussion, and possible adoption of Ordinance No. 3508, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1685, generally located one-quarter mile east of Olive Avenue, one-half mile north of Jasper Street, granting a RS-3 zoning classification to be placed upon the tracts, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency

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

Move to adopt Ordinance No. 3508

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 Johnnie Parks, seconded by Debra Wimpee.

Move to approve the emergency clause

The motion carried by the following vote:

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

C. 18-255 Consideration, discussion, and possible adoption of Ordinance No. 3509, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1815, generally located one-third mile west of Evans Road, south of State Highway 51, granting an IH zoning classification be placed upon the tract along with PUD 248, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency

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

Move to adopt Ordinance No. 3509

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 Mike Lester, seconded by Johnnie Parks.

Move to approve the emergency clause

The motion carried by the following vote:

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

- D. 18-254** **Consideration, discussion, and possible adoption of Ordinance No. 3510, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1803, generally located one-quarter mile south of Omaha Street, west of Aspen Avenue, granting a CH zoning classification be placed upon the tract along with PUD 209, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency**

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

Move to adopt Ordinance No. 3510

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 approve the emergency clause

The motion carried by the following vote:

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

- E. 18-252** **Consideration, discussion, and possible adoption of Ordinance No. 3511, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1790, generally located one-half mile south of Washington Street, east of Aspen Avenue, granting an ON zoning classification be placed upon the tract along with PUD 158B, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency**

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

Move to adopt Ordinance No. 3511

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 Johnnie Parks, seconded by Scott Eudey.

Move to approve the emergency clause

The motion carried by the following vote:

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

- F. 18-306** **Consideration, discussion, and possible adoption of Ordinance No. 3512, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ-1986, granting PUD-266 (Planned Unit Development) and Residential Multi-Family zoning classification be placed upon the tracts, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency**

Mayor Thurmond and Vice Mayor Eudey stepped out of the room for the duration of item discussion and vote due to conflict at approximately 7:50 p.m.

City Attorney Childs stated this item was unusual. She explained staff normally did not present an adopted ordinance for consideration so quickly after it had been conditionally approved by the Council; however, state law provided in order for zoning to be finally, not conditionally, changed, an ordinance had to be adopted by Council and in order for an ordinance to pass it took a majority of the full Council. She explained this meant all three remaining Council Members were required to vote yes for this item to pass and the zoning to be changed. She stated, for transparency, there was pending litigation regarding this case; local residents had filed a lawsuit against the city and the developers regarding this rezoning application. She explained there had been confusion regarding the prior vote; the surrounding land owners took the position that the zoning was not approved and the landowners took the position that the zoning was approved. She stated this vote would settle matters once and for all. She stated the Declaratory Judgment Action was the reason, in addition to the pending litigation, that staff deviated from normal process in bringing this before Council. She reported staff felt if the Council was to conditionally approve this, and sometime in the future it returned and the Ordinance was not adopted, it would expose the city to considerable liability. She asked if there were any questions.

Council Member Wimpee stated she was still concerned about the strain on infrastructure, on schools, and on public safety in the area. She stated she had not heard how any of her concerns were to be addressed if 300 additional units were built in this location. She explained it was not the project itself which concerned her, it was the area.

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

Move to approve Ordinance No. 3512

The motion carried by the following vote:

Aye: 2- Johnnie Parks, Mike Lester
Nay: 1 - Debra Wimpee

City Attorney Childs stated, for clarification, the Ordinance did not pass.

Mayor Thurmond and Vice Mayor Eudey returned to the room at approximately 7:54 p.m.

G. 18-285 Consideration, discussion, and possible adoption of Ordinance No. 3514, an Ordinance annexing property located in the East Half (E/2) of the Southwest Quarter (SW/4) of Section Eleven (11), Township Eighteen (18) North, Range Fifteen (15) East of the Indian Base and Meridian (I.B.&M.), Wagoner County, State of Oklahoma, and generally located North of Houston Avenue, between Midway Road and South 273rd East Avenue, repealing all ordinances to the contrary; and declaring an emergency

City Attorney Childs stated a Public Hearing had been held at the previous meeting regarding the annexation of 38.72 acres of land into the City. She reported all the statutory requirements had been met, the Ordinance had been previewed and this was the final step. She requested Council adopt Ordinance No. 3514 and approve the emergency clause.

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

Move to adopt Ordinance No. 3514

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 Johnnie Parks, seconded by Mike Lester.

Move to approve the emergency clause

The motion carried by the following vote:

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

12. Remarks and Inquiries by Governing Body Members

Council Member Parks he attended a city breakfast a week ago and he and staff thoroughly enjoyed the breakfast. He stated morale was high and he complimented the staff member(s) who organized the event. He stated he would be in favor of holding this breakfast event more regularly. Vice Mayor Eudey agreed and he stated he enjoyed it and had been stopped by several staff members on his way out who intimated the event had been a morale booster.

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

City Manager, Michael Spurgeon, congratulated the city employees who completed the COBA-U program. He stated when he began in his position as City Manager two years ago he noted the need for improved continuity of government. He learned that there was a need for individuals in other departments to have a better understanding of how the other respective departments operated within the city. He stated he also believed in promoting from within and this was more successful if those seeking advancement had an understanding of the culture of an organization and a familiarity with operational procedures. He stated COBA-U taught how the different departments operated and promoted needed interdepartmental relationships. He thanked HR Director Jannette McCormick for her stewardship and City Attorney Beth Anne Childs for her support and promotion of the program.

City Manager Spurgeon thanked City Council for awarding the marketing study contract being undertaken for 101st and Elm Place to Catalyst. He stated ten years ago the city had the foresight to do a similar study for the Downtown area and he believed this study was just as needed and would prove just as beneficial. He reported Catalyst would not only determine what businesses would be most successful in the area, it also would make necessary connections with realtors and businesses to help bring the desired changes about. He stated he felt Catalyst was the best choice and he looked forward to working with them.

City Manager Spurgeon reported the General Obligation Bond Public Forums were beginning this Thursday night at 6:00 PM. He reported the first Public Forum would be held in south Broken Arrow, then at Forest Ridge, and then at Battle Creek. He stated, for public informational purposes, the Public Forums would consist of a welcome from the Mayor and a few brief comments from Council Members regarding the importance of the forums and the GO Package, a short explanation by him regarding the process and vote dates, and finally residents would have the opportunity to wander the room and visit with the different departments to ask questions and learn about the various projects. He explained there would be scribes at each station to record resident's comments and questions, a report would be compiled from this feedback, and the feedback report would be used to assist in paring down the package, this compilation would take at least a month. He stated he was looking forward to Thursday night's Forum.

At approximately 8:03 p.m. Mayor Thurmond stated he would entertain 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 brief recess to meet for BAMA and BAEDA

The motion carried by the following vote:

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

At approximately 8:05 p.m. Mayor Thurmond reconvened the regular session of the City Council Meeting. He stated there was an Executive Session and he called for a motion for a brief recess to clear the room for the Executive Session.

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

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

Mayor Thurmond and Vice Mayor Eudey left the room at approximately 8:06 p.m. for the duration of the Executive Session and did not return for the regular session of the City Council Meeting that was reconvened and opened to the public.

At Approximately 8:14 p.m. Council Member Lester asked for a motion to enter into Executive Session.

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

Move to enter into the Executive Session

The motion carried by the following vote:

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

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:

Litigation, including potential resolution, of a matter involving a case titled Henry and Vestina Hanewinkel v. City of Broken Arrow, et al, Case No. CJ-2018-00012, in the District Court of Tulsa County, State of Oklahoma, and potential filing litigation against Henry and Vestina Hanewinkel, Brown and Perkins, LLC, and other necessary and appropriate Defendants and potentially challenging the requirements of Okla. Stat. tit. 11, § 14-102 and taking appropriate action in open session, including possible authorization to settle this litigation, 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 claims, litigation and possible litigation in the public interest and the purchase and appraisal of real property in accordance with State Statute. 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 8:40 p.m. the regular session of the City Council Meeting was reconvened and the room was opened to the public.

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

Move to find the Executive Session was necessary to process the pending litigation in the public interest

The motion carried by the following vote:

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

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

Move to approve Resolution No. 1082

The motion carried by the following vote:

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

15. Adjournment

The meeting adjourned at approximately 8:42 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:

s/Craig Thurmond_____
Mayor

s/Lisa Blackford_____
City Clerk