



City of Broken Arrow

Minutes  
City Council

City Hall  
220 S 1st Street  
Broken Arrow OK  
74012

*Mayor Craig Thurmond*  
*Vice Mayor Richard Carter*  
*Councilor Mike Lester*  
*Councilor Johnnie Parks*  
*Councilor Scott Eudey*

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Tuesday, July 19, 2016

Time 6:30 p.m.

Council Chambers

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1. Call to Order

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

2. Invocation

Pastor Tom Liteer delivered the invocation.

3. Roll Call

Present: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

4. Pledge of Allegiance to the Flag

Councilman Parks led the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

Mayor Thurmond stated there was a request to table item 5U, which would be considered separately. He asked if there were any further items to be removed from the Consent Agenda. There being no other item, he asked for a motion.

MOTION: A motion was made by Mike Lester, seconded by Richard Carter.

**Move to approve the Consent Agenda with the exclusion of item U**

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

A. 16-782

**Approval of City Council Meeting Minutes of June 6, 2016**

B. 16-780

**Ratification of a rate confirmation from Minnesota Life Insurance Company to provide group term life, accidental death and dismemberment and supplemental life insurance to City employees**

C. 16-863

**Approval of Workers' Compensation Court Order for Francis "Frank" Charon, Fire Department Employee**

D. 16-756

**Acceptance of the Safe Oklahoma Grant from the Office of the Attorney General of Oklahoma E. Scott Pruitt and approval and authorization to execute the Safe Oklahoma Grant Program Contract**

E. 16-813

**Approval and authorization to accept a grant from the Oklahoma District Attorney's Council for the City of Broken Arrow (Victims of Crime Act Grant) to provide a Victim Response Program in fiscal year 2016-2017**

F. 16-817

**Approval and authorization to execute a contract for professional services between the City of Broken Arrow and Family & Children's Services (F&CS) to provide a Victim Response Program for the City of Broken Arrow**

G. 16-747

**Approval and authorization to execute an agreement for professional consultant services for Albany Street Corridor Study, Elm Place to Hillside Drive with Cowan Group Engineering, LLC associated with the Stoney Creek Hotel and Conference Center and surrounding development areas**

H. 16-807

**Approval and authorization to renew the annual Commercial Services Agreement with Cox Communications for data and telephone services for fiscal year 2016-17**

I. 16-806

**Approval and authorization to execute an Amended and Restated Site Use/Lease Agreement and First Amendment to Memorandum of Lease Agreement with New Cingular Wireless, PCS, LLC**

J. 16-808

**Approval and authorization to purchase a Three-Quarter (3/4) Ton Crew Cab Pickup (2016/2017 Ford F-250) for the Information Technology Department from Bill Knight**

**Ford, pursuant to the Oklahoma Statewide Contract**

- K. 16-809** Review of quote received and awarding to Ford Audio-Video for the purchase of a TV Video Server Automation System and authorization to execute System Installation Agreement
- L. 16-794** Review of bids received and awarding of the most advantageous bid to Baysingers Uniforms and Equipment for purchase of police uniforms and equipment and approval and authorization for the City Manager to execute the purchase contract
- M. 16-787** Review of bids received and awarding of the lowest responsible bid plus additive alternate 1 to Tri-Star Construction, LLC, and approval and authorization to execute a construction contract for Downtown Main Street Streetscape - Phase IV (Project No. 161709)
- N. 16-751** Approval and authorization of Final Acceptance for the public improvements for ICON Apartments located at 4801 South Elm
- O. 16-770** Approval of PUD-118E and BAZ-1958 (rezoning request), The Cottages at Aspen Park, 18.94 acres, R-3, CH, and PUD 118A to RM and PUD 118A, located east of Aspen Avenue, one-quarter mile north of Kenosha Street
- P. 16-802** Acceptance of a General Warranty Deed for a tract of land located in Section 10, Township 18 North, Range 15 East, located just east of Oneta Road (241st East Avenue) on the south side of Kenosha (71st Street South) for the Oneta Road Lift Station Replacement project (S.1607) from Sandlane Investment Company
- Q. 16-805** Acceptance of a Temporary Construction Easement conveyed to the City of Broken Arrow a tract of land located in Section 10, Township 18 North, Range 15 East, located just east of Oneta Road (241st East Avenue) on the south side of Kenosha (71st Street South) for the Oneta Road Lift Station Replacement project (S.1607) from Sandbox Management, LLC
- R. 16-804** Acceptance of a Temporary Construction Easement for a tract of land located in Section 5, Township 18 North, Range 14 East, located on the southwest corner of Albany Street (61st Street South) and Olive Avenue (129th East Avenue) for the Tulsa Water Line Connection, Phase II, (WL1611) from Leroy T. and Colene A. Pang
- S. 16-799** Acceptance of a Utility Easement from Double Eagle Estates, LLC, for sanitary sewer on property located one quarter mile east of Olive Avenue and south of Tucson Street, Tulsa County, State of Oklahoma (Section 4, T17N, R14E) (Riverstone Estates)
- T. 16-801** Acceptance of a Utility Easement from Double Eagle Estates, LLC, for sanitary sewer on property located one quarter mile east of Olive Avenue and half mile south of Tucson Street, Tulsa County, State of Oklahoma (Section 4, T17N, R14E) (Riverstone Estates)
- U. 16-815** Approve the appointment of Harold Tohlen to fill a vacancy on the Broken Arrow Board of Adjustment created by the expired term of Ralph Crotchett, whose term expired May 1, 2016
- V. 16-812** Approval of the Broken Arrow City Council Claims List for July 19, 2016

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

Director of Development Services Michael Skates related that item 5U concerned the appointment of Harold Tohlen to fill a vacancy on the Board of Adjustment. A long time Broken Arrow citizen, Mr. Tohlen had a long and distinguished career, first with the Corps of Engineers, and then with the City of Tulsa in the development planning.

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

**Move to appoint Harold Tohlen to fill the vacancy on the Broken Arrow Board of Adjustment created by the expired term of Ralph Crotchett**

The motion carried by the following vote:

**Aye: 5 -** Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

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

There were no public hearings, appeals, presentations, recognitions or awards.

## 8. Citizens' Opportunity to Address the Council on General Topics Related to City Business or Services

No citizens signed up to speak.

## 9. General Council Business

### A. 16-861

#### **Consideration, discussion, and possible action on pending tort claims filed by Daniel and Kimberly O'Barr, Kim Longacre, Ricky Beach, and State Farm Insurance Company, including potential resolution, potential settlement, acceptance or denial of the claims**

Assistant City Attorney Trevor Dennis recalled that at the previous City Council meeting, three homeowners who had filed tort claims alleging damages from the February 29, 2016 sewer back-up incident spoke. It was his understanding that the O'Barrs had submitted additional witness statements and insurance information that was requested then.

Kimberly O'Barr, 1245 West Louisville Street, explained that on February 29<sup>th</sup> her home was flooded with raw sewage, which poured out their toilets, shower, bathtub, kitchen sink, sticking to their floor, furniture, household and personal items. She stated that their insurance provided little financial aid and her husband and friends had to remove the sewage-soaked carpet, flooring, and furniture themselves. The house had to be completely gutted and a two-foot flood cut was made throughout the house. She was concerned for the health of her children since they had been forced to move back into a house that was only 50% repaired. She stated that they were placed in the situation they were in because of a mistake by City workers in flushing the main sewer line. They sustained over \$45,000 in damages to the home and almost \$10,000 in personal loss. They were asking the City to step up and take responsibility for the damage to their home.

Daniel O'Barr, 1245 West Louisville Street, shared two brief videos from his home security showing the flow of sewage. As his neighbor had done that day, he approached a City worker on Line Road informing him that they were flooding his house. Twelve minutes later, he was still trying to stop the sewage in his house. It was his feeling that the City was somewhat responsible although he understood it had lines to clean. When he had told the workers about the problem they replied that they would slow it down, however, more damage occurred over several minutes of continued flow. He reasoned that had the City not been working on the line that morning, his house would still be undamaged, back flow valve or no back flow valve. He declared that he was not seeking retribution but was asking the Council to consider his family's situation. He realized to err was human but mistakes should be admitted, apologies made and corrections be offered. In conclusion, Mr. O'Barr stated that he would not be there if his insurance had paid for all the damage. He would ask the City to look at the ordinance. He was just asking the City for the difference his insurance refused to cover.

Councilman Parks, who was not in attendance at the previous Council meeting, asked for confirmation that the house did not have a check valve. Mr. O'Barr replied that it was still unclear whether it did or didn't since they did not have the money to dig and investigate the matter. Councilman Parks asked why he did not think the check valve would have helped if he had one. Mr. O'Barr clarified that he was saying if the City hadn't been there that morning, back flushing upstream instead of downstream the way they did, the outcome could have been different. Councilman Parks commented that he thought that normally they would proceed from downstream and go up, to relieve the pressure. He'd seen a lot of sewers backed up in homes as owner of a plumbing company. He had been instrumental in passing the ordinance for mandatory check valves not just for new homes, but in homes where the manhole was not lower than a certain grade from the floor of the house. Councilman Parks pointed out he the sewer was full upstream from Mr. O'Barr's house when the City arrived there. Mr. O'Barr said they were having no problems and there had not been any prior issues. He went on to say that he thought there was a big problem with Broken Arrow's not notifying new homeowners of the ordinance and home inspectors ignoring the issue entirely. He added that the City still didn't know if he was, in fact, required to have a check valve or not. He thought something went wrong to flood four or five houses in such a manner.

Councilman Eudey inquired if he had had an engineer or plumbing expert look at the situation and give an assessment. Mr. O'Barr said he had not because he couldn't afford it. Moreover, his new flooring had been damaged because everything that the City had pushed back into his line that was in his yard, he could not afford to push back out. The sewage had dried up in their pipes while they were living in a hotel and it posed a problem when they returned.

Kim Longacre, 1241 West Louisville Street, recalled that her house too was flooded, causing \$40,000 worth of damage. She had lived in the house over 23 years and had never experienced a sewer back-up. She reported that there was no way they could know what the grade was in reference to the manhole, which she had been told was to be found three houses down in someone's backyard. If there were notices sent on the ordinance, then it was very inconspicuous and limited. She added that on the day of the incident, she had sent her son running to the City workers to ask them to quit what they were doing because her house was flooding, and they refused. The workers came around later and the supervisor told her husband that the only reason that they used a water jet with that much

pressure, going through the line backwards, was because their auger was broken. Normally they would have cut through the tree roots, grease, etc., before they used the spray jets. As described, she felt that the City Sanitation Department was to blame for the back-up and the ensuing damage.

Councilman Lester asked Ms. Longacre for confirmation that she had said that she did not recall ever receiving notification in 23 years. She replied that no, she did not recall receiving notification on the ordinance. Councilman Lester observed that he believed at the last meeting, a neighbor from across the street stated that he had received notification. Ms. Longacre stated possibly, she did not know.

Josh Stenros, 240 East El Paso Street, stated that his parents lived at 1241 West Louisville Street. At the time of the flooding he was out of the country and he received a call from his distraught mother. She bore financial responsibility for several people and lived from paycheck to paycheck, and the family had to provide for their needs until the insurance acted. He wished to bring to the Council's attention a statement from another neighbor who did have a check valve installed, which indeed, did not stop the flood. The valve did serve to slow it down, but the only way he got it to stop and prevent his house from flooding was to go outside and break the line himself. For the ordinance to be neglected by professionals who were there to inspect for safety, a house that didn't come with a check valve would be cause for concern. He questioned also, if notices were sent at one point several years ago, were they sent again every time a house was sold to a new owner? Homeowners, especially new homeowners, could not be expected to be plumbing and legal experts. The City needed to keep them safe from such biohazards.

Tracy Nixon, 1244 West Louisville Street, stated that it was her husband who had seen a notification six years' prior, having lived in the house 15 years. Until he saw the notice, he was unaware that they needed a backflow valve, and the only reason he knew to read it was because he worked for Wagoner Country Water and Sewer. They didn't know where their downstream line was until they were shown it on a map by a City employee. She pointed out that the worker did state to her, on the day of the incident, that their machines were not working so they had to proceed in a different way.

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

**Move to table the item until after the Executive Session**

The motion carried by the following vote:

Aye: 5 -

Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

B. 16-771

**Consideration, discussion and possible approval of BACP-154 (Comprehensive Plan Change), Bentley Village IV, 8.14 acres, Level 4 to Level 2, one-fifth of a mile west of the southwest corner of Jasper Street and Aspen Avenue**

Mayor Thurmond declared he had a conflict regarding the item and left the room at 6:58 p.m.

Vice-Mayor Carter stated that Director of Development Services Michael Skates would discuss the item with the Council. Mr. Skates stated that they were looking to develop the tract in question into single-family, attached homes. The applicant would be coming back for zoning, if they received approval that night. The Planning Commission had given their approval, although one person did speak of concerns regarding visibility on Jasper Street, asking when the street might be widened. They were able to answer her question, confirming that it would happen at a future time. It was recommended that the Council approve BACP-154, Bentley Village IV.

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

**Move that BACP-154 be approved subject to platting**

The motion carried by the following vote:

Aye: 4 -

Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter

Mayor Thurmond returned to the room at 7:00 p.m.

C. 16-791

**Consideration, discussion and possible approval and authorization to execute Resolution No. 932, a resolution approving action taken by the Broken Arrow Municipal Authority authorizing the issuance of its promissory note in the principal amount of \$6,700,000 to the Oklahoma Water Resources Board; ratifying and confirming a lease agreement and operation and maintenance contract and a security agreement between the City and the Authority and containing other provisions relating thereto**

Mr. Dennis recommended that the matter be tabled until after the Broken Arrow Municipal Authority (BAMA) had had an opportunity to consider Resolution No. 931, when the City Council meeting was reconvened.

MOTION: A motion was made by Mike Lester, seconded by Scott Eudey.  
**Move to table item 9C until after Resolution No. 931 is considered at the BAMA meeting**

The motion carried by the following vote:

**Aye: 5 -** Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

- D. 16-793** **Consideration, discussion and possible approval and authorization to execute Resolution No. 933, a resolution approving the City of Broken Arrow, Oklahoma, Social Media Policy, Procedures and Guidelines; authorizing periodic adjustment by the City Manager; and providing an effective date of August 1, 2016**

Mr. Dennis explained that the City had multiple social media accounts at the present time. There was no set process or procedure to create or govern the administration of such accounts. Proposed policies and procedures going along with Resolution No. 933 would institute social media policy procedures and guidelines, and also put direction of the sites under the City's Director of Information Technology. It was staff's recommendation that Council pass the Resolution to approve and adopt the proposed social media policy procedures and guidelines.

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

**Move to approve Resolution No. 933 and authorize its execution**

The motion carried by the following vote:

**Aye: 5 -** Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

#### 10. Preview Ordinances

- A. 16-773** **Consideration, discussion, and possible preview of an Ordinance amending Chapter 2, Administration, Article I, In General, Section 2-8-Established, Appointment, Term and Duties of Assistant City Manager of Administration and Assistant City Manager of Operations; Date of evaluation compensation, merit bonuses and definitions; repealing all ordinances to the contrary; and declaring an emergency**

Mr. Dennis stated that the item was a preview of an ordinance establishing the positions of Assistant City Manager of Operations and Assistant City Manager of Administration. Staff members in the two positions would be responsible for duties assigned by the City Manager and compensation for said positions would be based upon performance. Evaluation of both Assistant City Manager positions would take place on or before July 31, regardless of the anniversary date of hiring. Merit bonuses would also be available with respect to the two positions if the respective staff member significantly exceeded the expectations. It was recommended that the City Council preview the ordinance and set it for adoption at the next meeting.

MOTION: A motion was made by Mike Lester, seconded by Richard Carter.

**Move to preview the Ordinance and set it for adoption**

The motion carried by the following vote:

**Aye: 5 -** Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

- B. 16-772** **Consideration, discussion, and possible preview of an Ordinance amending Chapter 2, Administration, Article IX, Employee Rules and Regulations, Section 2-165-Department director evaluation and compensation, merit bonuses and definitions; repealing all ordinances to the contrary; and declaring an emergency**

Mr. Dennis stated that the item represented a preview ordinance that established evaluation of departmental directors under traditional leadership tenets. It was recommended that the City Council preview the ordinance and set it for adoption at the next meeting.

City Manager Michael Spurgeon pointed out that the ordinance would outline the performance evaluation that would be completed for each of the departmental directors on an annual basis.

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

**Move to preview the Ordinance and set it for adoption**

The motion carried by the following vote:

**Aye: 5 -** Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

#### 11. Ordinances

- A. 16-775** **Consideration, discussion, and possible adoption of Ordinance No. 3428, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1940, granting a RS-2 zoning classification be placed upon the tract along with PUD 239, generally located one-quarter mile south of the southeast corner of Jasper Street and Garnett Road, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency**

Mayor Thurmond said he would have Vice-Mayor Carter handle items 11A and 11D, and he left the room at 7:05 p.m.

Mr. Dennis reported that the next six items on the agenda, items 11A through 11F, were all ordinances pertaining to rezoning applications to effectuate changes to the zoning code and case maps. He advised the Council to vote on the six items separately, bearing in mind that Mayor Thurmond had recused himself with regard to items 11A and 11D, which should be addressed in succession.

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

**Move to adopt Ordinance No. 3428**

The motion carried by the following vote:

**Aye:** 4 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter

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

**Move to approve the emergency clause for Ordinance No. 3428**

The motion carried by the following vote:

**Aye:** 4 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter

**D. 16-781**

**Consideration, discussion, and possible adoption of Ordinance No. 3431, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1951 and PUD 246, granting a RS-2 zoning classification be placed upon the tract along with PUD 246, generally located one-quarter mile south and one-quarter mile east of the southeast corner of Jasper Street and Garnett Road, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency**

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

**Move to adopt Ordinance No. 3431**

The motion carried by the following vote:

**Aye:** 4 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter

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

**Move to approve the emergency clause for Ordinance No. 3431**

The motion carried by the following vote:

**Aye:** 4 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter

Mayor Thurmond returned to the room at 7:07 p.m., following the votes on items 11A and 11D.

**B. 16-778**

**Consideration, discussion, and possible adoption of Ordinance No. 3429, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1948, granting a RE zoning classification be placed upon the tract, generally located south and west of the southwest corner of Kenosha Street and Oak Grove Road, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency**

MOTION: A motion was made by Johnnie Parks, seconded by Richard Carter.

**Move to adopt Ordinance No. 3429**

The motion carried by the following vote:

**Aye:** 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

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

**Move to approve the emergency clause for Ordinance No. 3429**

The motion carried by the following vote:

**Aye:** 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

**C. 16-779**

**Consideration, discussion, and possible adoption of Ordinance No. 3430, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving PUD 241, granting PUD 241 zoning classification be placed upon the tract, generally located one-third mile south of Kenosha Street, one quarter mile east of Elm Place on the northeast corner of Cedar Avenue and Elgin Street, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency**

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

**Move to adopt Ordinance No. 3430**

The motion carried by the following vote:

**Aye:** 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

MOTION: A motion was made by Johnnie Parks, seconded by Richard Carter.

**Move to approve the emergency clause for Ordinance No. 3430**

The motion carried by the following vote:

**Aye:** 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

- E. 16-783**                    **Consideration, discussion, and possible adoption of Ordinance No. 3432, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving PUD 98A, granting PUD 98A zoning classification be placed upon the tract, generally located one-quarter mile south of New Orleans Street, east of Aspen Avenue, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency**
- MOTION: A motion was made by Johnnie Parks, seconded by Scott Eudey.  
**Move to adopt Ordinance No. 3432**  
The motion carried by the following vote:  
**Aye: 5 -** Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond
- MOTION: A motion was made by Richard Carter, seconded by Mike Lester.  
**Move to approve the emergency clause for Ordinance No. 3432**  
The motion carried by the following vote:  
**Aye: 5 -** Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond
- F. 16-784**                    **Consideration, discussion, and possible adoption of Ordinance No. 3433, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1952 and PUD 249, granting an IL zoning classification be placed upon the tract along with PUD 249, generally located south of Washington Street, west of State Highway 51, and east of the Creek Turnpike, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency**
- MOTION: A motion was made by Richard Carter, seconded by Scott Eudey.  
**Move to adopt Ordinance No. 3433**  
The motion carried by the following vote:  
**Aye: 5 -** Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond
- MOTION: A motion was made by Mike Lester, seconded by Johnnie Parks.  
**Move to approve the emergency clause for Ordinance No. 3433**  
The motion carried by the following vote:  
**Aye: 5 -** Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond
- G. 16-796**                    **Consideration, discussion, and possible adoption of Ordinance No. 3440, an ordinance amending the Broken Arrow Code, Chapter 23, Traffic, Article III, Traffic Control Devices, Section 23-110 - Repealed; specifically bringing this section into compliance with state law regarding penalties involving driving through barricades and traffic control devices during flooding; repealing all ordinances to the contrary, and declaring an emergency**
- Mr. Dennis stated that the Ordinance amended Section 23-110, Oklahoma House Bill 2249, the related legislation making it a crime to drive around barricades that closed down streets due to flooding. Violators of the proposed Ordinance could be ordered to pay restitution if they required rescuing by emergency responders, and could also be required pay for repair or replacement of damaged equipment. Ordinance 3440 would bring the City into compliance with State law. Staff recommended that Council adopt Ordinance No. 3440 and approve the emergency clause.
- MOTION: A motion was made by Scott Eudey, seconded by Mike Lester.  
**Move to adopt Ordinance No. 3440**  
The motion carried by the following vote:  
**Aye: 5 -** Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond
- MOTION: A motion was made by Richard Carter, seconded by Johnnie Parks.  
**Move to approve the emergency clause for Ordinance No. 3440**  
The motion carried by the following vote:  
**Aye: 5 -** Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond
- H. 16-797**                    **Consideration, discussion, and possible adoption of Ordinance No. 3441, an ordinance amending Chapter 24, Article 1, Section 24-18 - Restricting use of water during emergency; specifically providing that emergency water restrictions will be handled in accordance with the City of Broken Arrow's Water Conservation Program; repealing all ordinances to the contrary; and declaring an emergency**
- Mr. Dennis recalled that the City's current water conservation program had been adopted by the Council at the June 20<sup>th</sup> City Council meeting. The ordinance under consideration would amend the City code so that in the event of an emergency caused by a water shortage in the City system, the City Manager would be authorized to declare an emergency and restrict water usage, in accordance with the Broken Arrow Water Conservation Program. Staff recommended that Council adopt Ordinance No. 3441 and approve the emergency clause.
- MOTION: A motion was made by Johnnie Parks, seconded by Mike Lester.  
**Move to adopt Ordinance No. 3441**

**Aye: 5 -** The motion carried by the following vote:  
Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

MOTION: A motion was made by Scott Eudey, seconded by Richard Carter.

**Move to approve the emergency clause for Ordinance No. 3441**

**Aye: 5 -** The motion carried by the following vote:  
Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

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

There were no remarks or inquiries.

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

Mr. Spurgeon said he wished to provide some updates for the City Council, as well as for the public, with reference to the Consent Agenda. Firstly, the governing body awarded a contract to Tri-Star Construction for streetscape Phase IV, which pertained to the final three blocks of public improvements to be completed in the Rose District. The Notice to Proceed, he believed, would be issued sometime in early August. The construction schedule called for substantial completion by the end of January 2017. Secondly, he wished to report that work was continuing on the interactive water feature. Concrete had been poured and most of the nozzles had been set in place. As he understood, they were slightly behind schedule, but Assistant City Manager of Operations Ken Schwab believed there would be opportunities to catch up, so that the interactive water feature would be functional by early- to mid-September. Thirdly, with regard to the contract awarded to Cowan Group Engineering to do a corridor study of the Albany Street/Elm Place and area associated with the Stoney Creek Hotel and Conference Center, he thought it was important to find out what improvements could be made. Funds had been set aside by the Council through Vision Surplus to complete improvements in relation to traffic signals, taking into account any other considerations that would make the area safer for vehicular traffic and pedestrians, also. A meeting led by Mr. Skates, was set for the following Monday to brainstorm on what needed to be done. Then they would start paring down their ideas into what the City could afford in using the roughly \$600,000 available for improvements.

Mr. Spurgeon observed that it had been very hot that week and hotter weather was expected, with temperature-humidity indexes of over 100 degrees Fahrenheit anticipated for Thursday or Friday. He appreciated the Council's support in passing the water conservation ordinance. The water plant was performing as expected at present, and he was proud of the work the operators on Anthony Daniel's team were doing, keeping up with demands. Mr. Schwab would be speaking at the BAMA meeting that night on where they stood with respect to completion of the connection with Tulsa for additional capacity. They would be sending out information to the community later that week about the importance of not taking water for granted, encouraging citizens to use water at off-peak hours, when possible, to help the City meet the high seasonal demand for water.

Mr. Spurgeon reported that there had been a weather-related power outage the week before and it was one of the largest in Public Service Company's (PSO) memory, with about 109,000 customers in the Tulsa metropolitan area losing power, most of whom were in Broken Arrow. PSO did a great job of keeping the City informed about every four to six hours till power was restored to the community over the weekend. Additional personnel had to be brought in to complete the job and he appreciated PSO's efforts to restore power as soon as possible. There was also a high volume of tree limbs down and the City's solid waste teams were working at clearing the neighborhoods. A robocall was sent out that day announcing that because of the heat and the amount of trash, the City would collect trash the following day. He praised Director of General Services Lee Zirk and his team who were working diligently in the heat to collect the trash. With respect to storm damage, Mr. Spurgeon informed the Council that the Communications Director and he sent out a robocall the previous Friday, stating that Streets and Stormwater Department, with the help of Solid Waste, would be going street to street to pick up fallen tree branches that had been collected by citizens. Steve Arant, Director of Streets and Stormwater recommended and he accepted that they would send out a second robocall the following week to inform the public that the City would be coming around again on August 1<sup>st</sup> for a second collection of branches.

Mayor Thurmond entertained a motion to recess at approximately 7:18 p.m., in order to enter into the Broken Arrow Municipal Authority and the Broken Arrow Economic Development Authority meetings, prior to the Executive Session.

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

**Move to recess in order to enter into the Broken Arrow Municipal Authority and Broken Arrow Economic Development Authority meetings**



**Aye: 5 -** The motion carried by the following vote:  
Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

Mayor Thurmond reconvened the regular Council meeting at approximately 7:46 p.m., turning the Council's attention back to item 9C.

Finance Director, Tom Caldwell, asked for approval of Resolution No. 932 and authorization of its execution.

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

**Move to approve Resolution No. 932 and authorize its execution**

**Aye: 5 -** The motion carried by the following vote:  
Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

At approximately 7:47 p.m. Mayor Thurmond entertained a motion to recess prior to entering into the Executive Session.

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

**Move to recess prior to entering into the Executive Session**

**Aye: 5 -** The motion carried by the following vote:  
Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

Mayor Thurmond reconvened the regular Council meeting at approximately 7:53 p.m. and asked for a motion to clear the room and enter into the Executive Session.

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

**Move to enter into the Executive Session**

**Aye: 5 -** The motion carried by the following vote:  
Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

#### 14. Executive Session

**Executive Session for the purpose of confidential communications between the Broken Arrow City Council, the City Manager and the City Attorney, and possible action in open session regarding the following:**

- 1. Pending tort claims, including potential resolution, potential settlement, acceptance or denial of the claims and taking appropriate action in open session regarding the tort claims filed by Daniel and Kimberly O'Barr, Kim Longacre, Ricky Beach and State Farm Insurance Company, under 25 O.S. §307(B)(4); and**
- 2. A settlement demand/claim and possible litigation submitted by Lamar Outdoor Advertising regarding the removal of billboards from the City right-of-way located north of the Broken Arrow Expressway, along West Fargo Street, west of Aspen Avenue, and involving an Agreement between the City of Broken Arrow and Nikel Investment, L.L.C., providing for removal of the billboards and indemnification, and possible action in open session including authority to enforce the terms of the agreement, under 25 O.S. §307(B)(4); and**
- 3. The possible purchase and appraisal of real property located on Lynn Lane (9th Street) between Houston (81st Street South) and Elgin Avenue and possible action in open session, including authorization to negotiate for the potential purchase of this real property and obtain additional appraisals for this real property, under 25 O.S. §307(B)(3)**

At approximately 8:40 p.m., Mayor Thurmond reconvened the regular session of the City Council meeting and the room was opened to the public.

MOTION: A motion was made by Richard Carter, seconded by Mike Lester.

**Move to find that the Executive Session was necessary to process the pending claims and potential litigation in the public interest**

**Aye: 5 -** The motion carried by the following vote:  
Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

MOTION: A motion was made by Richard Carter, seconded by Mike Lester.

**Move to deny the Tort Claims filed by Daniel and Kimberly O'Barr, Kim Longacre, Ricky Beach, and State Farm Insurance Company**

**Aye: 5 -** The motion carried by the following vote:  
Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

MOTION: A motion was made by Richard Carter, seconded by Mike Lester.

**Move to authorize the City Attorney to send a letter to the attorney for Nikel Investments, LLC, advising of the claims made by Lamar Outdoor Advertising, requesting that their representatives take action with regard to the subject billboards, and placing Nikel on notice of its contractual duty to indemnify and defend the City**

The motion carried by the following vote:

**Aye: 5 -** Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

MOTION: A motion was made by Richard Carter, seconded by Mike Lester.

**Move to direct Staff to move forward with acquisition of land on Lynn Lane, between Houston and Elgin, for public parking to be utilized by condominium residents in this area as necessary for the public improvements to Lynn Lane**

The motion carried by the following vote:

**Aye: 4 -** Scott Eudey, Mike Lester, Richard Carter, Craig Thurmond

**Nay: 1 -** Johnnie Parks

**15. Adjournment**

The meeting adjourned at approximately 8:43 p.m.

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

**Move to adjourn**

The motion carried by the following vote:

**Aye: 5 -** Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

Attest:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk