



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

Tuesday, March 7, 2017

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

Pastor Rich Manganaro 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 that the applicant requested that item K be removed and tabled.

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

Move to approve the Consent Agenda excluding item 5K

The motion carried by the following vote:

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

- A. 17-1658 Approval of City Council Meeting Minutes of February 21, 2017
- B. 17-1898 Notification of City Manager's and Assistant City Manager's signing Professional Consultant Agreements with a value less than \$25,000
- C. 17-1914 Approval and authorization to execute Engineering Contract Funding Agreement Amendment #1 with Oklahoma Department of Transportation (ODOT) for engineering services involving Broken Arrow Creek Trail Project #146020
- D. 17-1878 Approval and authorization to execute First Amendment to Communications Radio Antenna Agreement with T-Mobile Central LLC for property located at 801 New Orleans Avenue
- E. 17-1879 Approval and authorization to execute First Amendment to Communications Radio Antenna Agreement with T-Mobile Central LLC for property located at 803 East Kenosha Street
- F. 17-1902 Ratification of an Interlocal Agreement concerning road repair and maintenance between the City of Broken Arrow and Wagoner County
- G. 17-1896 Award of the lowest responsible bid to Apex Industries, Inc., dba True Fireproofing Co., and approval and authorization to execute a construction contract for Stark Building Insulation (Project No. 165104)
- H. 17-1766 Approval to waive formal competitive bidding and approve the purchase of two LifePak 15 cardiac monitors from Physio-Control, Inc. as bid pursuant to the Oklahoma Statewide Contract SW300 and authorization to surplus two LifePak 12 monitors and authorize trade-in as a credit for the Fire Department
- I. 17-1899 Notification of Change Orders with a value of less than \$25,000 on public contracts
- J. 17-1893 Approval of BAZ 1971 (Rezoning Request), 26.2 acres, A-1 (Agricultural) to IL (Industrial Light), east of 9th Street, one-quarter mile south of Houston Street
- K. 17-1894 Approval of SP 278 (Specific Use Permit) R & M Music, 2.93 acres, CH, east of the southeast corner of Washington Street and Elm Place between Atlanta Street and Washington Street
- L. 17-1874 Acceptance of a Detention Easement Dedication from Robert L and Belinda L Cacy, on property located east of 9th Street and a quarter mile north of Tucson Street, Tulsa County, State of Oklahoma, (Section 36, T18N, R14E) (Lynn Lane Mini Storage Phase II)

- M. 17-1877 **Acceptance of a Waterline Easement Dedication from Robert L and Belinda L Cacy, on property located east of 9th Street and a quarter mile north of Tucson Street, Tulsa County, State of Oklahoma, (Section 36, T18N, R14E) (Lynn Lane Mini Storage Phase II)**
- N. 16-1543 **Approval of the Broken Arrow City Council Claims List for March 07, 2017**

6. Consideration of Items Removed from Consent Agenda

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

Move to table item K until the first meeting in April 2017

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

- A. 17-1907 **Presentation by representatives of Keep Broken Arrow Beautiful to provide an update of the Commemorative Rose Garden fundraising efforts and identifying Broken Arrow as the “City of Roses”**

Sharon Acheson, a Committee Co-chair and Board member of Keep Broken Arrow Beautiful stated that her purpose in addressing the Council was to ask them to adopt the tagline, “City of Roses,” and to promote it in such a way so that visitors and residents would be drawn to the Broken Arrow’s wonderful history in relation to roses. She related that from 1920 to the 1950s, Broken Arrow was known as the “City of Roses and Sparkling Clean Spring Water.” Typically, a homeowners planted roses and there was a rose carnival, a rose show, a float, a rose queen, and so on. Six years prior, Dr. Oliver and Beverly Forster decided that they needed to do something to bring back to life Broken Arrow’s historic relationship with roses, and the Keep Broken Arrow Beautiful Committee was formed. Ms. Acheson announced that the fourth annual Rose Festival and Rose Show would be held on May 6th, with multiple rose gardens being constructed all over Main Street and throughout the town, including at the extension of South Main Street. The Bring Back the Rose Committee would also be adding a “Plant a Rose Week” to the Festival, to be celebrated April 17th through April 23rd. Four local nurseries would be offering classes on cultivation of roses and offering discounts on plants. Ms. Acheson went on to inform the Council that a six-acre commemorative garden had been designed, stating that the “City of Roses” designation would be a helpful, fundraising tool for the garden. She produced ten letters in support of her request from cultural, business and civic institutions and leaders, including the Mayor, pointing out that if businesses used the tagline in their advertising, then every single ad would serve as collateral advertising for the City and the Rose District. Ms. Acheson called Brandon Murphy to step forward to speak.

Retail auto business owner Brandon Murphy reported that he had gotten involved about three or four years back and had thought of honoring car dealer Bob Nelson’s parents through a garden. Viewing the project from a marketing standpoint, there being two Nissan competitors in the City, and realizing during shooting of a commercial that they had to make Broken Arrow’s brand bigger, he made the connection with roses and what the business community could lend to the projects and receive as benefit, in return. Branding was crucial in driving visitors to come to Broken Arrow to buy goods and services. Branding a destination increased the strength of its appeal. Therefore, he encouraged the Council to tag Broken Arrow as the “City of Roses.”

Councilman Eudey commented that he had served on the Keep Broken Arrow Beautiful Committee for some time, as had the Vice-Mayor, in the past. He felt that it fit in well with the Rose District and it was a good idea to consider at some point in the near future, and added that Broken Arrow was already a city of roses, anyway.

City Manager Michael Spurgeon related that he, along with Councilman Eudey, had met a few weeks before with Peggy and Mr. Murphy, and they realized the tagline’s potential value to generate tourism. They discussed the process of developing the forthcoming, new round General Bond Obligations with that in mind, and he invited them to make the recommendation they had just made to the Council then. The Council would take it under advisement pending vetting for any unintended consequences. The Council could be asked to take formal action on the matter as early as April. He, himself, supported the idea and thought it in the City’s best interest to adopt the tagline.

- B. 17-1872 **Presentation and discussion of the 2016 Annual Report**

Mr. Spurgeon said he was proud to present the 2016 Annual Report as snapshot of the year’s accomplishments, and expressed his appreciation for Communications Director Krista Flasch’s contribution. He pointed out that the Annual Report would be sent to federal, state and local legislators, along with many of the City’s corporate partners. The theme he would focus on was accomplishments or milestones that had been achieved by the governing body and the administration in 2016. Mr. Spurgeon directed them to pages 4 and 5 which contained the top ten milestones, listed month by month. The Report also included Mayor Thurmond’s 2016 Year in Review letter, giving his synopsis of the year. One page was devoted to the very visible, major accomplishment of the installation of the beautiful Rose District water fountain. The following

page on economic development recognized Broken Arrow as a happy place to live. The next page highlighted the City's efforts and accomplishments in becoming a more sustainable city for residents and investors alike. Toward that end, Mr. Spurgeon recalled that they had created a Recycling Committee to examine options for residential curbside collection. The City achieved greater sustainability when it began taking solid waste to the Covanta Tulsa Renewable Energy Facility instead of the landfill in December. In addition, they kicked off the Monarch Initiative to create pollinator pathways for migrating Monarch butterflies. Mr. Spurgeon turned to page 13, covering the quality of life, stating that through Director of Parks and Recreation Scott Esmond's leadership, they adopted the GO Plan, which would add more bike trails to the network. The City was receiving grant funds for the project. On the following page was displayed a photo of the new tennis courts. Pages 15 and 16 focused on achievements in infrastructure, with subsequent pages focusing on keeping Broken Arrow safe and transparency in government. The final page of the Annual Report contained information on the elected officials and administration.

Mayor Thurmond stated that it was an outstanding Report.

C. 17-1892

Presentation by Fire Chief Jeremy Moore on Department updates and related discussion

Fire Chief Jeremy Moore presented a report on the Fire Department, providing an overview of current operations and accomplishments, followed by a statement on future goals. Broken Arrow firefighters sought to provide the highest level of service to citizens, treating them with dignity and respect. The Department focused on collaborative opportunities and innovation, striving to be a leader in fire service in Oklahoma and nationwide.

Chief Moore recalled that in 2015, the Department pledged to hire 20 additional firefighters by 2020, following passage by voters of the Vision extension, which provided dedicated funding. He reported that as of February 2017, they had already delivered on their promise, and the final 11 new firefighters would be finished with Academy training and on the streets by summer. The City was able to secure Staffing for Adequate Fire and Emergency Response (SAFER) Grants in 2014 and 2015 – a great accomplishment since it was unheard of to obtain back-to-back SAFER Grants. Together, the Grants brought in roughly \$2.5 million in salaries and benefits for new firefighters, all 20 of whom were already on the payroll, and present funding lasting until early 2019. There were other funding sources and grants for which they had applied, pending. The Department had just received a grant from INCOG (Indian National Council of Governments) in the form of a Congestion Mitigation Air Quality Grant (CMAQ), in line with the City's goal of greater sustainability. Fire Department staff also aimed to prototype some idle reduction technology for it ambulances, with Tom Hendrix of Engineering/Construction providing assistance with the grant application for technology that would keep emissions and fuel costs down. As always, the Department's highest priority remained the safety of citizens and the firefighters. About 78% of what they did involved addressing medical emergencies and they had applied for a federal grant that would upgrade ambulance cot operations by enabling auto-loading.

With regard to partnerships in the community, which the Department prided itself on, Chief Moore reported that they had just rolled out the Tulsa Community College partnership, which would enable them to set the standard for training professional firefighters in Northeast Oklahoma. The Department continued to engage with public school students and further impacted the quality of life for citizens by teaching freshmen CPR, in accordance with State requirements for high school graduation. On average, they taught CPR to 1,000 freshmen per year, in partnership with area hospitals and care facilities.

Turning to deployment and growth within the Fire Department, Chief Moore stated that the City currently had seven fire stations, with the seventh that opened in 2016, facilitating improved response time. A total of 34 firefighters and paramedics were on duty every day, including a Battalion Chief, five engines, two ladders and six ambulances. Chief Moore went over mutual aid with other agencies, providing a breakdown with the visual aid of a pie chart. The Broken Arrow Fire Department answered the call whenever possible, to help other agencies in Tulsa, Bixby, and Coweta, a total of about 111 times in 2016. In order to render assistance, they had to have three engines, two ambulances and one ladder available to serve within Broken Arrow. They had a mutual agreement with Tulsa, in which they responded to calls just north of the City (north of Nienhuis Park), a total of 52 times in 2016. Although Tulsa was the City's biggest mutual-aid user, calls were typically, only five to fifteen minutes in duration, with Broken Arrow's help required only until the Tulsa Fire Department arrived on the scene. In addition, 20% calls were cancelled by Tulsa before Broken Arrow's arrival.

Looking at goals for 2017, the Department's top priority was to add a seventh ambulance to its fleet. In 2016 there were 159 times that they exhausted all six ambulances, requiring assistance from other agencies/fire departments outside the City. In 2017, the Broken Arrow Fire Department planned to roll out a very innovative project, widely used throughout the United States, but nowhere in Oklahoma, with its adoption of the program PulsePoint. An application for Smartphone users integrated with the City's 911 system, the program would enable citizens trained in CPR to respond to citizens in public spaces in need and to notify professional emergency responders, as well.

In response to a question by Councilman Parks, Chief Moore confirmed that utilizing every Chief Officer assigned to a 40-hour work week, a fire truck and an ambulance or two, they were able to teach 1,000 high school freshmen in one full day. They also made use of their partnerships with Citizens' CPR, local hospitals, and even Tulsa Tech, to help in that effort.

In response to a question by Councilman Eudey referencing incorporation of the cost of an additional ambulance into the 2018 Budget, Mr. Spurgeon replied that Chief Moore had only presented the request less than a month before and was still analyzing and compiling data.

Mr. Spurgeon requested that Chief Moore update the Council on acquisition of land and design considerations for new fire stations. Chief Moore stated that there was Bond money on hand to replace Fire Station #3, currently in operation in the Indian Springs area. They were struggling to find a landowner willing to sell property in the County Line-Creek Turnpike area, the best place to situate a new fire station to ensure adequate response time. They had retained GH2 Architects, LLC to begin design plans for the proposed station, as well as for a new, seventh station for which they had already purchased property at Washington Street and 1st Place. With regard to the latter future station, the matter would have to go to the voters for approval of funding for construction. Vice-Mayor Carter inquired whether they could not obtain some of the land leased by the City to NSU for its campus, or even land from the Events Park, with respect to replacing Fire Station #3. Chief Moore replied that they had considered it; however, the location was not ideal, being out of range of the area that needed service.

D. 17-1904

Mayor's pledge from The Milken Institute Center for the Future of Aging

Mayor Thurmond stated that they had received a pledge to sign from the Milken Institute, affirming that Broken Arrow was a city that supported quality aging for its citizens, in keeping with recognition it had received in past years regarding quality of life and quality as a place to retire. Reading from the pledge, the Mayor cited that Broken Arrow ensured the well-being of its aging population, as addressed by each individual department, and that it would make the City safe, affordable and comfortable for older residents, providing older adults access to resources promoting health and wellness. Furthermore, it would support employment, entrepreneurship, as well as education, to make older residents more financially secure. The City would pledge to offer housing options suited to their needs, improved access to transportation and more mobility options, also. The Mayor stated that he had signed the pledge, affirming such, and he requested the Council to lend its support.

Councilman Eudey commented that he supported the pledge as an important affirmation that encouraged participation in what they, as a City, were already doing through their Senior Center, and so on. The three other Council members voiced their agreement and support of the pledge.

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. 16-1626

Consideration, discussion, and possible approval and authorization to execute a Letter of Intent to accept the donation of real property located at 709 Magnolia Court, Broken Arrow, Oklahoma, from the Tulsa Community Foundation, by and through the City of Broken Arrow Neighborhood Park Fund or other such fund deemed appropriate, and to construct a Memorial Garden and Park honoring the victims of violence and tragedy and City of Broken Arrow

Mr. Spurgeon stated that Council was being requested to approve the attached Letter by the Mayor. Upon acceptance, the City would make some improvements as an extension to the existing Park. It also represented a commitment by the City to make the improvements in the future and as such, he and the City Attorney felt it appropriate that Council weigh in on the decision. The administration recommended its approval.

Councilman Lester commented that in all his 35 years of public service with the Union School District and the City, it was probably the most gratifying thing he had done, though the going was very difficult at times. He related that when he was first contacted by the neighbors seeking the City's help, his background on the City Council, and in real estate and law enforcement, all came together to help make the project viable and to move it forward. Following a news conference, a week and a half prior, donations to the Foundation did not come in as expected, perhaps because it was not explained well enough or people were distracted by other things happening in their busy lives. His connections with good people like Cindy Morrison, who stepped forward to help raise the funds to purchase the home through the Tulsa Community Foundation, helped greatly. She was instrumental in spreading the word across social media to the Tulsa and Broken Arrow community. He had seen the opportunity and had been given a deadline of April 7, 2017 to raise the funds. In his discussions with the lender in possession of the house, he learned that the house had had an appraised value of \$265,000. Due to the tragic events that had taken place, Councilman Lester informed the Council that it was probably worth between \$75,000 and \$150,000. The lender emailed him that they were willing to take \$50,000 for the house. It was a very reasonable price and they just needed to get their message out, across Broken Arrow, the Tulsa metropolitan area and the State, since it was a very worthy cause. The project's fruition would help first responders, as well neighbors, with the healing process, Councilman Lester clarified that they could go to tulsacf.org/?fund=242, the URL of the Bever Family First Responders Memorial Fund,

to make a credit card donation. Donations in the form of a check made out to the Bever Family First Responders, could be sent to the Tulsa Community Foundation at 7030 South Yale Avenue, Suite 600, Tulsa, OK 74136. In addition, they were reaching out to the business community. Any and all donations were welcome and greatly appreciated. Councilman Lester added that he had participated in a news story presented by Channel 8 on the subject, which would probably be airing that night. Cindy Morrison would pick up that broadcast story and share it via social media, encouraging others to share it, in turn, on their own Facebook pages.

Councilman Parks thanked Councilman Lester's for his leadership on the proposed project. He thought it a good idea, feeling for the neighbors who had to deal with seeing the house every day. In approving the Letter of Intent, he especially considered the first responders, and the need to show them support and provide some closure by doing something positive with the property. Councilman Lester said he wished to clarify in answer to some negative comments, that it was not the City's intent to acquire the property, but the Foundation's, and the surviving Bever children had no interest in the property either, since it was mortgaged and had been deeded back to the lender.

Mayor Thurmond noted that Councilman Lester had not only taken the lead on the project, but had done a yeoman's job in getting things done. He appreciated his efforts and he believed the community did too.

Councilman Eudey said it was a tragedy that had scarred Broken Arrow, and he saw it as an opportunity to create a good thing that would honor those who would live with the memory of the aftermath for the rest of their lives. He thanked Councilman Lester for taking on the project, adding that it was something the Councilman could be proud of.

Mayor Thurmond requested that Mr. Spurgeon read the Letter of Intent. Mr. Spurgeon concurred with comments made by the governing body in praise of Councilman Lester. He saw the project initiative as having four parts entailing private acquisition, private demolition, which Councilman Lester had coordinated with reputable local company to perform pro bono, donation of the property to the City, which the Council would have to approve, and handing it over to Parks and Recreation to maintain it. With regard to maintenance, Mr. Esmond was working on some cost estimates for creation of a memorial garden. Mr. Spurgeon read the Letter of Intent composed by Mayor Thurmond, dated March 8th, which would serve as formal notification to the Tulsa Community Foundation regarding the City's intent to accept donation of the property.

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

Move to approve the Letter of Intent and authorize its execution

The motion carried by the following vote:

Aye: 5 -

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

B. 17-1910

Consideration, discussion, and possible approval and authorization to execute a Service Agreement between Jerry Whorton, LLC (dba Consolidated Benefits Resources) and the City of Broken Arrow to provide services for Workers' Compensation claims administration

Human Resources Director Jannette McCormick stated that the City provided Workers Compensation Benefits to employees through a self-insured program. To ensure that the Plan was being managed in line with industry best practices for cost containment while providing assistance to injured employees, Human Resources decided to solicit proposals from third-party administrators. She reported that five proposals were received back and they interviewed four. After assessing the proposals and conducting the interviews, they determined that Consolidated Benefits Resources (CBR) appeared to have the required expertise and active management programs in place to provide the strongest return on investment from a claims-cost containment perspective. The firm had a local office in the Tulsa area and was currently using a flat fee pricing model that was higher in cost to some of the other respondents' pricing. However, based on the metrics CBR shared with them and references Human Resources had contacted who provided feedback on the company, Human Resources believed that CBR's approach to active management of the claims would, most likely, offset the difference in pricing. Based on the proposal submitted by CBR, staff recommended approval of the service agreement between Jerry Whorton, LLC doing business as Consolidated Benefits Resources, and the City of Broken Arrow, and authorize its execution.

Mr. Spurgeon pointed out that upon her official appointment as Director, Ms. McCormick was alerted to the need to do a comprehensive review of the administration of benefits, realizing that some additional services needed to be offered. He thanked her for her due diligence and asked for Council's consideration of the Agreement since CBR was offering valuable assistance and support to them.

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

Move to approve the Service Agreement between Jerry Whorton, LLC (dba Consolidated Benefits Resources) and the City of Broken Arrow and authorize its execution

The motion carried by the following vote:

Aye: 5 -

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

- C. 17-1890 **Consideration, discussion, and possible award of the lowest responsible bid plus Alternates 1 and 2 to Becco Contractors, Inc., and authorize execution of a construction contract for Kenosha: Garnett to Aspen Mill and Overlay (Project No. ST1713)**
 Alex Mills, Director of Engineering/Construction, recalled that as part of the 2014 General Obligation Bond, \$1,050,000 was approved by voters for the Kenosha Street mill and overlay project. Upon the bonds being sold in late 2016, funds became available by January 1st, and Engineering/Construction performed an in-house design of the project. The project went to bid and they broke it up into a base bid and two alternates, being concerned that pricing might exceed the City's budget. The bids received for the project were very good, with Becco Contractors, Inc.'s being the best at \$825,958.55 and well below the engineer's estimate of over \$1 million. Mr. Mills recommended approval of that bid.
- MOTION: A motion was made by Johnnie Parks Mike, seconded by Richard Carter.
Move to award the lowest responsible bid to Becco Contractors, Inc. and authorize execution of the construction contract for the base bid and alternates one and two for Kenosha: Garnett to Aspen Mill and Overlay
 The motion carried by the following vote:
 Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond
- D. 17-1912 **Consideration, discussion, and possible approval of Resolution No. 988, a Resolution authorizing the City Attorney to enter into a proposed Joint Application for Approval of Settlement and a Journal Entry of Judgment in regard to the matter of Vicky High v. City of Broken Arrow, et al., Case No. CJ-2012-03982 in the District Court for Tulsa County, State of Oklahoma and directing the City Attorney to prepare and file the necessary documents to effectuate settlement, including a Journal Entry of Judgment for the Court's approval, pursuant to 51 O.S. § 158**
 City Attorney Beth Anne Childs recalled that the item under consideration had been before the Council a number of times, and one time in Executive Session. Following the Executive Session, Council authorized the State Attorney's Office to extend an offer consistent with Council's direction. Ms. High had agreed, showing willingness to accept the sum of \$45,000. The Resolution allowed the City to move forward, with any amount over \$25,000 having to be approved in District Court pursuant to the Tort Claims Act. She believed it to be a reasonable settlement since there was some dispute over the actual scenario and there was concern that if the City proceeded to trial, it would in likelihood, not prevail. It was requested that Council approve the Resolution No. 988 and authorize its execution.
- MOTION: A motion was made by Mike Lester, seconded by Scott Eudey.
Move to approve Resolution No. 988 and authorize its execution
 The motion carried by the following vote:
 Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond
- E. 17-1903 **Consideration, discussion, and possible approval of Resolution No. 989, a Resolution authorizing the City Attorney to disclaim any interest in property located near 12315 South Garnett Road, Broken Arrow, Oklahoma, 74011, in a condemnation action entitled City of Tulsa, Oklahoma v. Gillean, et al, filed by the City of Tulsa in the District Court in and for Tulsa County, State of Oklahoma, Case No. CJ-2017-491 to acquire a sanitary sewer easement and temporary construction easement for the construction of the RMUA-ES-2009-10 C3 Force Main Improvements Haikey Creek Lift Station Rehabilitation Project**
 Ms. Childs stated that the item involved a condemnation action as filed by the City of Tulsa. She explained that they were proceeding with condemnation because they needed to acquire a sanitary sewer easement and temporary construction easement, in order to construct part of the Regional Metropolitan Utility Authority (RMUA) Force Main Improvements. She was recommending the disclaimer since the City of Broken Arrow did not possess any property easements, or otherwise, in the particular location in question. The Resolution would enable the City to move forward with the District Court case and as such, it was requested that Council approve Resolution No. 989 and authorize its execution.
- MOTION: A motion was made by Johnnie Parks, seconded by Scott Eudey.
Move to approve Resolution No. 989 and authorize its execution
 The motion carried by the following vote:
 Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond
- F. 17-1901 **Consideration, discussion, and possible approval of Resolution No. 990, a Resolution authorizing the City Attorney to enter into a Final Journal Entry of Judgment without admitting liability in the matter of Independent School District No. 4 of Tulsa County, Oklahoma v. City of Broken Arrow, et al, Tulsa County District Court Case No. CV-2017-00125, authorizing foreclosure and vacation of an easement located on property located at Lot One (1), Block One (1), BIXBY NORTHEAST CAMPUS, a subdivision in the City of Broken Arrow, Tulsa County, State of Oklahoma, According to the recorded plat thereof generally located north of 131st Street, ½ mile east of Garnett Road**

Ms. Childs explained that there was an easement in an area in the vicinity of Bixby Northeast Campus, which the Council had approved to close previously by adoption of an ordinance. Foreclosure action to clear title of the area was moving ahead. It was requested that Council approve the Resolution and authorize its execution.

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

Move to approve Resolution No. 990 and authorize its execution

The motion carried by the following vote:

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

G. 17-1900 Consideration, discussion, and possible approval of Resolution No. 991, a Resolution authorizing the City Legal Department to file an action in District Court to obtain a Decree ordering the abatement of a public nuisance regarding the property located at 3013 South Oak Avenue, Broken Arrow, Oklahoma 74012

Ms. Childs reported that there was a structure at the address mentioned, that had previously been declared a nuisance pursuant to procedure set forth in the Code of Ordinances. However, she stated, it was the Legal Department's practice to seek Council's authorization to proceed with a District Court nuisance abatement action to ensure that proper notifications were made. Approval of the Resolution would enable them to demolish the structure and it was therefore, requested that Council approve Resolution No. 991 and authorize its execution.

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

Move to approve Resolution No. 991 and authorize its execution

The motion carried by the following vote:

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

H. 17-1924 Consideration, discussion, and possible approval of Resolution No. 992, a Resolution of the Broken Arrow City Council urging all United States Senators to reintroduce the Marketplace Fairness/Digital Parity Act into the United States Senate during its 2017 session; urging all members of the House Judiciary Committee to act on the Marketplace Fairness/Digital Parity Act or other legislation to collect and remit sales taxes structured on a system of collection bases upon the purchaser's location; urging the United States Senate and the United States House of Representatives to hold votes to pass the Marketplace Fairness/Digital Parity Act or other legislation to collect and remit sales taxes structured on a system of collection based upon the purchaser's location during the 2017 session; and directing the City Clerk to provide attested copies of this Resolution to the Speaker of the United States House of Representatives, Chairman of the House Judiciary Committee, the Senate Majority Leader of the United States Senate, the Honorable James Inhofe, United States Senator, and the Honorable James Lankford, United States Senator

Mr. Spurgeon stated that the Resolution on which he was requesting Council's support concerned appraisal of the United States Congress regarding the City's position with respect to marketplace fairness/digital parity. In the past few years, Mayor Thurmond had addressed the matter, taking it up with the National League of Cities (NLC) to try to enlist support of federal delegations to pass some type of legislation that would provide needed parity for brick and mortar businesses to be able to compete against online sellers. The Council's support of the Resolution was important in relation to the upcoming meeting of the National League of Cities, of which Mayor Thurmond was a Board member. The Mayor would be able to present it to the Board and subsequently, the City could express its support when it met with its federal delegation again, in the interest of drafting a bill that could eventually be signed into law by the President. Such a bill would give local businesses a fair chance to compete by leveling the playing field. The heavy dependency on sales tax in the State of Oklahoma made it all the more essential for parity to exist. Mr. Spurgeon noted that they had met with six of their seven Oklahoma representatives three weeks before and the majority of them were in favor of exploring the issue.

Mayor Thurmond concurred that due to the fact that Oklahoma's cities ran on sales taxes, it was really crucial. Their representatives, along with the National League of cities, believed that if it could be brought to the floor of Congress as a bill, it stood a good chance of getting passed. Similar legislation with respect to Roanoke, Virginia, had been proposed under Congressman Goodlatte. Councilman Eudey added that a misconception had arisen that such legislation would constitute a new tax, when it certainly did not. It was in fact, enforcing a tax that was already on the books, and one that cities in Oklahoma counted on in order to survive.

Vice-Mayor Carter indicated that it was fair because local vendors had to pay for space and staff, while online businesses operating from elsewhere, out of State, could afford to offer merchandise for a little cheaper, with customers paying no sales tax.

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

Move to approve Resolution No. 992 and authorize its execution

The motion carried by the following vote:

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

. 17-1906 Consideration, discussion, and possible approval of Resolution No. 993, a Resolution of the Broken Arrow City Council urging the United States Congress and President of the United

States of America to preserve the Tax-exempt status of Municipal Bonds; and strongly opposes any Federal Legislation or Executive action that would eliminate the Federal Tax Exemption on Municipal Bonds

Mr. Spurgeon stated that Resolution No. 993 referenced a federal issue. Since 1913, a federal tax exemption for municipal bonds had existed. As a community that issued municipal bonds on a regular basis, it was very important for Broken Arrow to be able to continue to do so with the exemption in place. The matter would be presented the following week to the NLC Board and their federal delegation would be given a copy, as well.

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

Move to approve Resolution No. 993 and authorize its execution

The motion carried by the following vote:

Aye: 5 -

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

J. 17-1911

Consideration, discussion, and possible approval of Resolution No. 994, a Resolution authorizing the City Attorney to file a Petition against Nikel Investment, LLC for Nikel Investment, LLC's violation of a July 15, 2008 Development and License Agreement and authorization to draft and file all necessary accompanying legal documents to effectuate suit against Nikel Investment, LLC

Ms. Childs informed the Council that she had placed the item on the Agenda for discussion in Executive Session, should the Council wish to address it in that way, as it involved litigation, it related to a matter the Council became aware of back in 2008, when the City and Nikel Investment, LLC entered into an agreement whereby the company was allowed by the City to move forward with platting and expansion of their businesses under certain conditions. The company placed three billboards in a particular area and under the agreement, they had to be removed once the leases expired. It was her understanding that up to that day, their removal had not taken place. The City worked diligently with the both the billboard company and Nikel's representatives and attorneys, but it appeared that the billboard company was unwilling to remove them of their own volition, and was taking the position that they had a vested interest in continuing to keep the billboards in their original locations. Mr. Nikel's position was that it was not his problem, but the billboard companies. Nevertheless, there remained a valid agreement under which there were circumstances that the party was supposed to follow through on, though they had not. Ms. Childs stated that if Council wished to discuss it in Executive Session, they needed to make a motion to table it until after the Executive Session. If the Council wished instead, for the Legal Department to move forward with litigation, they simply needed to approve Resolution No. 994 and authorize its execution.

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

Move to approve Resolution No. 994 and authorize its execution

The motion carried by the following vote:

Aye: 5 -

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

K. 17-1919

Consideration, discussion, and possible approval of Resolution No. 995, a Resolution of the Broken Arrow City Council approving, authorizing and accepting a contract for sale of real estate for real property located at 312 North 9th Street, in Broken Arrow, Oklahoma and more particularly described as beginning one hundred ninety six feet (196) feet north of the Southeast corner of Block Two (2), Mound View Addition to the City of Broken Arrow, Tulsa County, State of Oklahoma, thence north seventy five (75) feet; thence west one hundred forty (140) feet; thence south seventy five (75) feet; thence east one hundred forty (140) feet to the Point of Beginning; approving and authorizing purchase of real estate pursuant to the contract for sale of real estate; and authorizing the City of Broken Arrow's expenditure of the sum of \$90,000.00 to effect such purchase, as well as reasonable and necessary costs; designating representatives of the City of Broken Arrow, Oklahoma, for purposes of granting certain approvals and executing certain instruments as required under and in connection with said contract for sale of real estate; and containing other provisions relating thereto (9th Street

Widening Project-Elgin to El Paso)

Mr. Mills stated that in order to move forward with the 9th Street-widening project, the City was in need of several properties, including one at 312 North 9th Street. They had reached agreement with the Bryce Family Trust in the amount \$90,000, which was the property's appraised value. Approval of the Resolution authorized acceptance of the contract and proceeding with closing of the property.

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

Move to approve Resolution No. 995 and authorize its execution

The motion carried by the following vote:

Aye: 5 -

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

Mr. Spurgeon thanked Councilman Eudey, whom the residents reached out to, for facilitating conclusion of the matter. He thanked Mr. Mills and Engineering/Construction staff for their attention, so that they could move forward and get started on schedule.

- L. 17-1920 **Consideration, discussion, and possible approval of Resolution No. 996, a Resolution of the Broken Arrow City Council approving, authorizing and accepting a contract for sale of real estate for real property located at 310 North 9th Street, in Broken Arrow, Oklahoma and more particularly described as beginning one hundred forty six feet (146) feet north of the Southeast corner of Block Two (2), Mound View Addition to the City of Broken Arrow, Tulsa County, State of Oklahoma, thence west one hundred forty (140) feet; thence north fifty (50) feet; thence east one hundred forty (140) feet; thence south fifty (50) feet; to the Point of Beginning; approving and authorizing purchase of real estate pursuant to the contract for sale of real estate; and authorizing the City of Broken Arrow's expenditure of the sum of \$63,000.00 to effect such purchase, as well as reasonable and necessary costs; designating representatives of the City of Broken Arrow, Oklahoma, for purposes of granting certain approvals and executing certain instruments as required under and in connection with said contract for sale of real estate; and containing other provisions relating thereto (9th Street Widening Project-Elgin to El Paso)**

Mr. Mills reported that the item referred to property adjacent to the one just voted on by the Council in the previous item. Council's approval of the purchase price of \$63,000, the appraised value of the property, plus closing costs, was requested.

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

Move to approve Resolution No. 996 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. 17-1909 **Consideration, discussion, and possible preview of an ordinance correcting the zoning designation from AG to an A-1 Agricultural District Zoning classification on 27.97 acres of land and legally described as a tract of land in the South Half of the Southeast Quarter (S/2 SE/4) of Section One (1), Township Seventeen (17) North, Range fourteen (14) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma**

Ms. Childs reported that as they went through the annexation process with regard to the property under consideration, it was discovered that the correct zoning was A-1, contrary to what was designated in the ordinance. She anticipated a few more revisions before the next meeting, but the present preview served to rectify the zoning error. It was recommended that Council preview the ordinance and set it for adoption.

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

Move to approve 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. 17-1875 **Consideration, discussion, and possible preview of an ordinance closing a detention easement on property located in the Southwest Quarter (SW/4) of Section Thirty (36), Township Eighteen (18), North Range Fourteen (14) East, a subdivision in the City of Broken Arrow, Tulsa County, State of Oklahoma, generally located east of 9th Street and a quarter mile north of Tucson Street; repealing all ordinances to the contrary; and declaring an emergency (Lynn Lane Mini Storage Phase II)**

Ms. Childs stated that if the Council wished to consider the item in question and the subsequent one together, it was fine being that both items pertained to the same landowner. In the first item (B), closure of the 17 1/7-acre detention easement was being requested. A new dedication located on the south side of the property, was being submitted as a replacement for the closure. The other item (C), as referenced below on the meeting agenda, entailed closure of a 15-foot waterline easement, on the property's west side, which would encroach on the building line setback. Closure was requested so that it could be relocated west of the building line, in accordance with good planning practice. It was requested that Council preview both items and set them for adoption at the next meeting.

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

Move to preview items B and C and set them for adoption

The motion carried by the following vote:

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

- C. 17-1876 **Consideration, discussion, and possible preview of an ordinance closing a waterline easement on property located in the Southwest Quarter (SW/4) of Section Thirty (36), Township Eighteen (18), North Range Fourteen (14) East, a subdivision in the City of Broken Arrow, Tulsa County, State of Oklahoma, generally located east of 9th Street and a quarter mile north of Tucson Street; repealing all ordinances to the contrary; and declaring an emergency (Lynn Lane Mini Storage Phase II)**

(The Council voted to preview and set the ordinance for adoption, as referenced in item B, above.)

- D. 17-1905 **Consideration, discussion, and possible preview of an ordinance amending the Broken Arrow Code, Chapter 23, Traffic, Article I, In General, Section 23-2. - Authority of City Manager to promulgate traffic regulations, specifically amending to grant the City Manager**

the authority to appoint a designee; amending Article II, Operation of vehicles generally, Section 23-79. - Driving on sidewalks; specifically allowing police motorcycles to operate on sidewalks; amending Article III, Traffic-Control Devices, Section 23-106. - Installation and maintenance generally, specifically amending to grant the City Manager the authority to appoint a designee; amending Section 23-107. - Conformity with state manual and specifications; uniformity; presumption of legality, specifically amending to include reference to the Broken Arrow Code of Ordinances; amending Section 23-118. - Adoption of the manual of uniform traffic control devices; specifically amending to remove the requirement of filing three copies of the uniform traffic control manual with the City Clerk; repealing all ordinances to the contrary; and declaring an emergency

Ms. Childs recalled the Council had recently approved the Traffic Control Manual. It was decided, as they were going through the process of evaluating that action, that they should take the opportunity to propose some amendments to the ordinance, allowing the City Manager to appoint a designee with regard to placement of signs and traffic control devices, and so forth. It was part of good government to have some built-in redundancy, and the item was representative of that dictum. Some of the other changes addressed the Manual of Uniform Traffic Control Devices (MUTCD), and an additional one pertained to Motorcycle Officers having the ability to operate on sidewalks. It was requested that Council preview the ordinance and set it for adoption at the next meeting.

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

Move to approve 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. 17-1863

Consideration, discussion, and possible adoption of Ordinance No. 3471, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1924 and PUD 231, generally located east of east of County Line Road, south of College Street, one-quarter mile north of Houston street, and west of Old Highway 51, granting an IL zoning classification be placed upon the tract along with PUD 231, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency

Ms. Childs observed that as was the practice of the Planning Division of Development Services, whenever the Legal Department went through the process of presenting ordinances regarding rezoning applications, they were not placed on preview. The Council had had numerous occasions to approve particular rezoning and PUD applications. As a result, all of the ordinances went forward with changing the maps and incorporating them into the Zoning Code. All the ordinances being considered referenced rezoning and it was requested that the Council vote on each one separately.

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

Move to adopt Ordinance No. 3471

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 on Ordinance No. 3471

The motion carried by the following vote:

Aye: 5 -

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

B. 17-1864

Consideration, discussion, and possible adoption of Ordinance No. 3472, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1946 and PUD 243, generally located on the southeast corner of Kenosha Street and 14th Street, one third mile east of 9th Street, granting an IL zoning classification be placed upon the tract along with PUD 243, 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. 3472

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 Mike Lester.

Move to approve the Emergency clause on Ordinance No. 3472

The motion carried by the following vote:

Aye: 5 -

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

C. 17-1866

Consideration, discussion, and possible adoption of Ordinance No. 3473, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1963, granting a RE zoning classification be placed upon the tracts, generally located one quarter mile west of 23rd Street, one-half mile north of New Orleans 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. 3473

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 on Ordinance No. 3473

The motion carried by the following vote:

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

- D. 17-1867** **Consideration, discussion, and possible adoption of Ordinance No. 3474, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1781, granting a RS-3 zoning classification be placed upon the tract along with PUD 181, generally located one-quarter mile west of Aspen Avenue, one-quarter mile south of Tucson Street, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency**

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

Move to adopt Ordinance No. 3474

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 Johnnie Parks.

Move to approve the Emergency clause on Ordinance No. 3474

The motion carried by the following vote:

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

- E. 17-1869** **Consideration, discussion, and possible adoption of Ordinance No. 3475, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1881, granting a RS-3 and FD zoning classification be placed upon the tracts, generally located on the northeast corner of Florence Street and Mingo Road, 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. 3475

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 Johnnie Parks.

Move to approve the Emergency clause on Ordinance No. 3475

The motion carried by the following vote:

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

12. Remarks and Inquiries by Governing Body Members

There were no remarks and inquiries by governing body members.

13. Remarks by City Manager

Mr. Spurgeon stated that he had several timely things to relate. Firstly, he recognized Dr. Oliver, who was in the audience. Secondly, with regard to updates given to the Council periodically by department heads, the Information Technology team (IT) was able to take their televised presentations and condense them for the Communications Department to disseminate on social media, as a means of educating the public. Mr. Spurgeon announced that a week before, they had joined and had begun utilizing the app (application) Nextdoor, which offered a most valuable and effective way of communicating with citizens. Also, with regard to the citywide road program, he announced that a six-minute video had been produced with the assistance of the Communications Department, on the pavement index report and the importance of road maintenance. The video would be shared with the Council at the next meeting.

Mr. Spurgeon went on to say the U.S. Conference of Mayors had an award program which issued a Livability Award. At the request of Mayor Thurmond who was a member of the organization, the City would be submitting an application by Friday, nominating the Rose District for the Award. He reminded them that the following week the NLC meeting would be held in Washington D.C., with several Council members and the Youth City Council attending. They would be visiting with the federal delegation, as well.

The Recycling Committee was continuing to meet about every two weeks, and was nearing the end of the educational phase, learning about how the City did things, what industry standards were, and what the options were with respect to implementing any type of recycling program.

Mr. Spurgeon announced that that weekend, the Tulsa Home Show would be held. The City would have a booth and would be participating by giving out informational packets on Broken Arrow. They would be giving away milkweed seeds, as well.

In other news, Assistant City Manager of Operations Ken Schwab informed him that 37th Street, also known as 209th, from Albany/61st Street to Omaha/51st Street project connecting the south to the north, was set to advertise Wednesday, March 8th, with bids scheduled to open on April 4th. They anticipated awarding the public construction contract at the May 2nd City Council meeting, and construction to begin by early June 2017, and take up the better part of the rest of the year. The three-lane roadway to be constructed, would help alleviate traffic on the eastside of Broken Arrow, and ease traffic flow from the Creek Turnpike to Walmart, and to both Liberty and Timber Ridge Elementary Schools, also. The work was being funded through the 2014 Bond Obligation. They had received a Conditional Letter of Map Revision (CLOMR) from FEMA, and were awaiting a national 404 permit.

Finally, Mr. Spurgeon reported, as the Council was aware, they had had to make a very difficult decision regarding the Veterans of Foreign Wars (VFW) building, which had fallen into disrepair and dilapidation, a couple of years back. The previous City Manager had to demolish the structure and committed to helping find land on which a new facility could be built, if they could not find an existing building that could be used. Mr. Esmond and Mr. Schwab believed that they might have found the right parcel, and one that was near the Veterans' Memorial on South Main Street. A couple of thousand dollars was spent by the City to do a preliminary site plan to assess feasibility, and the results were favorable. The Commander of the VFW was very excited about the possibility of finding land that not only could be leased to the VFW long term, but was situated right next to the Memorial.

14. Executive Session

There was no Executive Session, the Council having decided previously in the meeting that it was not necessary, during their consideration of item 9J (17-1911) under General Council Business.

Mayor Thurmond entertained a motion to adjourn.

15. Adjournment

The meeting adjourned at approximately 7:57 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