



# 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, February 7, 2017**

**Time 6:30 p.m.**

**Council Chambers**

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**1. Call to Order**

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

**2. Invocation**

Pastor Andrew Conley 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**

Boy Scout Troop #10 led the Pledge of Allegiance to the Flag.

**5. Consideration of Consent Agenda**

Mayor Thurmond said he wished to remove items AG and AH from the Consent Agenda, and it had been requested of him to remove item T, as well.

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

**Move to approve the Consent Agenda excluding items AG, AH and T**

The motion carried by the following vote:

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

- A. 17-1753** Approval of Amended City Council Meeting Minutes of December 6, 2016
- B. 17-1652** Approval of City Council Meeting Minutes of January 17, 2017
- C. 17-1744** Approval of Special Joint City Council and Convention and Visitors' Bureau Meeting Minutes of January 17, 2017
- D. 17-1801** Acceptance of Planning Commission meeting minutes of September 22, 2016
- E. 17-1799** Notification of City Manager's and Assistant City Managers' execution of Professional Consultant Agreements with a value less than \$25,000
- F. 17-1639** Approval and authorization to execute an amended final contract between the City of Broken Arrow and the Icon at Broken Arrow, Limited Partnership for storm sewer capacity improvements just south of Florence Street on Elm Place to serve the Icon at Broken Arrow Development of approximately 13.5 acres and additional 85 acres
- G. 17-1779** Approval and authorization to execute Amendment No. 2 to Architect-Engineer Contract with Infrastructure Solutions Group, LLC for 23rd Street Improvements (Houston Street to Kenosha Street) for Widening of State Highway 51 (Project No. ST0914)
- H. 17-1749** Approval and authorization to execute Downtown Overlay Study Pay Request Number 1 to ADG, PC through the Sales Tax Capital Improvement Program (STCI) in association with the Downtown Overlay District Revitalization
- I. 17-1643** Approval and authorization to execute Albany Corridor Study Pay Request Number 4 to Cowan Group Engineering, LLC through the Sales Tax Capital Improvement Program (STCI) in association with the Stoney Creek Hotel and Conference Center
- J. 17-1760** Approval and authorization to execute Pay Request Number 12 to Cowan Group Engineering, LLC for Professional Design Services through the Vision 2025 Sales Tax Program in association with the Stoney Creek Hotel and Conference Center
- K. 17-1761** Approval and authorization to execute Parking Lot, Phase III, Part A, Pay Request Number 3 (No. 12 overall) for Tri-Star Construction, LLC, through the Vision 2025 Sales Tax Program in association with the Stoney Creek Hotel and Conference Center
- L. 17-1742** Approval and authorization to purchase equipment for Storage Area Network and Server Replacement from Dell pursuant to the Western States Contracting Alliance for Computers as competitively bid by the State of Oklahoma's Central Purchasing Division

- M. 17-1770 Approval of bids received and awarding of the most advantageous bid to Casco Industries for the purchase of 110 Self-contained Breathing Apparatus for the Fire Department
- N. 17-1789 Approval to reject bids for the purchase of new Cisco IP phones and to find that the best interests of the City of Broken Arrow will be served by the rejection
- O. 17-1750 Approval of bids received and awarding of the lowest responsible bid to Jo-Co Equipment for an asphalt crack sealer for the Street Division
- P. 17-1773 Approval to reject all competitive bids for Fire Department structural firefighting gear due to the inability to award the bid within the allotted timeframe and authorize rebidding
- Q. 17-1745 Approval of BAZ-1967, Bentley Square, 8.14 acres, CG to RS-4, west of the southwest corner of Aspen Avenue and Jasper Street
- R. 17-1738 Approval of rezoning request, BAZ-1970, BA Corner, 40.71 acres, A-1, RD, CN, and CG to CH, northeast corner of Tucson Street and Aspen Avenue
- S. 17-1757 Approval of PUD-254 and BAZ-1968 and the partial abrogation of SP-257, QuikTrip, 2.77 acres, CN to CG/SP-257 to CN/PUD-254, northeast corner of Kenosha Street and 23rd Street
- T. 17-1739 Approval of PUD-255, First National Bank, 3.40 acres, DM to DM/PUD-255, one-half mile north of Houston Street, one-half mile west of 9th Street on the southeast corner of Main Street and Broadway Street
- U. 17-1756 Approval of PUD-257, Lot 1, Block 1 of Commerce Crossing, 2.98 acres, IL to IL/PUD-257, south of Albany Street, one-quarter mile west of Olive Avenue
- V. 17-1748 Acceptance of a Temporary Construction Easement conveying to the City of Broken Arrow a tract of land lying in the NW/4 of Section 5, Township 18 North, Range 15 East of the Indian Meridian, Broken Arrow, Wagoner County, Oklahoma, for the 37th Street Improvements from Houston to Albany (Project No. ST1413)
- W. 17-1747 Acceptance of a Drainage Easement conveying to the City of Broken Arrow two tracts of land lying in Lot 1, Block 2, Northeast Crossroads, an addition to Broken Arrow, Wagoner County, Oklahoma, for the 37th Street improvements from Houston to Albany (Project No. ST1413)
- X. 17-1788 Acceptance of a Drainage Easement from Signature Properties along the south part of the south half of Reserve O of Bristol Ponds, located one-quarter mile north of Washington Street, one-quarter mile west of Elm Place (Section 15, T18N, R14E)
- Y. 17-1782 Acceptance of a Drainage Easement from Signature Properties along the western part of the north half of Reserve O of Bristol Ponds, located one-quarter mile north of Washington Street, one-quarter mile west of Elm Place (Section 15, T18N, R14E)
- Z. 17-1786 Acceptance of a Drainage Easement from Signature Properties along the western part of the south half of Reserve O of Bristol Ponds, located one-quarter mile north of Washington Street, one-quarter mile west of Elm Place (Section 15, T18N, R14E)
- AA. 17-1790 Acceptance of a Utility Easement from Signature Properties along the eastern part of Reserve D of Bristol Ponds, located one-quarter mile north of Washington Street, one-quarter mile west of Elm Place (Section 15, T18N, R14E)
- AB. 17-1792 Acceptance of a Utility Easement from Signature Properties along the western part of Reserve D of Bristol Ponds, located one-quarter mile north of Washington Street, one-quarter mile west of Elm Place (Section 15, T18N, R14E)
- AC. 17-1784 Acceptance of a Utility Easement from Signature Properties along the eastern part of the north half of Reserve O of Bristol Ponds, located one-quarter mile north of Washington Street, one-quarter mile west of Elm Place (Section 15, T18N, R14E)
- AD. 17-1787 Acceptance of a Utility Easement from Signature Properties along the eastern part of the south half of Reserve O of Bristol Ponds, located one-quarter mile north of Washington Street, one-quarter mile west of Elm Place (Section 15, T18N, R14E)
- AE. 17-1781 Acceptance of a Utility Easement from Signature Properties along the western part of the north half of Reserve O of Bristol Ponds, located one-quarter mile north of Washington Street, one-quarter mile west of Elm Place (Section 15, T18N, R14E)
- AF. 17-1785 Acceptance of a Utility Easement from Signature Properties along the western part of the south half of Reserve O of Bristol Ponds, located one-quarter mile north of Washington Street, one-quarter mile west of Elm Place (Section 15, T18N, R14E)
- AG. 17-1803 Acceptance of a Utility Easement from Fifty-First South, LLC on an unplatted parcel of land, located north of Omaha Street and west of 37th Street on the west side of Platted Phase One (1), Silverleaf Subdivision, in the southeast quarter (SE1/4) of Section Thirty (30) Wagoner County, State of Oklahoma, (Section 30, T19N, R15E)

- AH. 17-1804      **Acceptance of a Utility Easement from Fifty-First South, LLC on an unplatted parcel of land, located north of Omaha Street and west of 37th Street on the northwest side of Platted Phase One (1), Silverleaf Subdivision, in the southeast quarter (SE1/4) of Section Thirty (30) Wagoner County, State of Oklahoma, (Section 30, T19N, R15E)**
- AI. 17-1805      **Acceptance of a Utility Easement (Exhibit C) from New Bedford Lakes, LLC on an unplatted parcel of land, located south of Omaha Street and west of 37th Street south of Platted Phase One (1), Silverleaf Subdivision, in the northeast quarter (SE1/4) of Section Thirty (31) Wagoner County, State of Oklahoma, (Section 31, T19N, R15E)**
- AJ. 17-1806      **Acceptance of a Utility Easement (Exhibit D) from New Bedford Lakes, LLC on an unplatted parcel of land, located south of Omaha Street and west of 37th Street south of Platted Phase One (1), Silverleaf Subdivision, in the northeast quarter (SE1/4) of Section Thirty (31) Wagoner County, State of Oklahoma, (Section 31, T19N, R15E)**
- AK. 16-1537      **Approval of the Broken Arrow City Council Claims List for February 07, 2017**

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

Recusing himself, Councilman Eudey left the room at approximately 6:33 p.m.

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

**Move to approve item T**

The motion carried by the following vote:

**Aye: 4 -** Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond  
**Recused: 1 -** Scott Eudey

Councilman Eudey returned to the room at approximately 6:33 p.m.

Mayor Thurmond recused himself and left the room at approximately 6:33 p.m.

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

**Move to approve item AG**

The motion carried by the following vote:

**Aye: 4 -** Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter  
**Recused: 1 -** Craig Thurmond

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

**Move to approve item AH**

The motion carried by the following vote:

**Aye: 4 -** Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter  
**Recused: 1 -** Craig Thurmond

Mayor Thurmond returned to the room at approximately 6:34 p.m.

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

- A. 17-1802      **Presentation of Financial Status of the City for the six months ending December 31, 2016 for the General Fund, Police Sales Tax Fund, Fire Sales Tax Fund and the Broken Arrow Municipal Authority**

Finance Director Tom Caldwell stated that with respect to the General Fund, expenses were well below current revenues by roughly \$19.5 million, which marked a change from the previous year, following approval by voters of repurposing of the Vision Tax. Under the repurposing, 0.15% would go to the Police Department and Fire Department, each, and .25% would go to the Streets and Stormwater Department. Police and Fire were removed from the General Fund and given their own special revenue fund so as to better track expenditures and revenues in relation to them. Expenses normally included in the total of current expenditures were reflected in the roughly \$18.5 under "OTHER FINANCING USES," displayed on the screen. Mr. Caldwell explained that at the end of each month they would transfer 36.7% of the "current revenues" to the Police Sales Tax Fund, and 30.7% to the Fire Sales Tax Fund. He went on to say that for the first six months, revenues were just below what they had budgeted by approximately \$63,000. The big decrease in revenue currently, could be seen in the sales tax, Finance having projected that the City would receive a 3% increase in revenue over the previous year, when in actuality, the increase came to just over 1%. Sales taxes were about \$392,000 below what they had projected for the first six months. Other taxes, including the franchise and tobacco tax, came in at roughly \$183,000 over what was expected. Tax revenues overall, were just over \$209,500 below what was projected for the year. Nevertheless, for the first six months, subtracting transfers and expenditures from revenues, the City was still showing a net profit of \$975,000, since expenses for the year, excluding public safety, were below budget with regard to Personal Services. Salaries were \$150,000 below what they had budgeted for the first six months and benefits were \$300,000 below, due to insurance costs not having gone up while Finance had projected they would. Mr. Caldwell anticipated that Personal Services would not go down and that the savings they were showing would be maintained or possibly, grow larger. Other operating expenditures came to \$345,000 below budget, largely because fuel costs were lower. Mr. Caldwell directed their attention to the good news on the screen, at the bottom of the page, referencing the General Fund. By Council

policy, they were to keep a six-month average in Emergency Reserve Fund balance, equal to 10% of General Fund revenues. They currently had roughly \$750,000 in excess of the required amount. Overall, the City was in a comfortable position with regard to the General Fund and generally, not in bad financial status at present.

Proceeding to the Police Sales Tax Fund, Mr. Caldwell pointed out that the repurposed Sales Tax did not go into effect until January 1<sup>st</sup>. Therefore, the check they were to receive in February would be the first check reflecting the increase. Through the first six months, the Sales Tax Fund exhibited a positive income of \$511,000, with most of the savings coming from the City having avoided spending the majority of capital outlay budgeted, as yet. Operating expenses were below budget by \$171,000. In conclusion, Mr. Caldwell stated that the next report would be showing quite different numbers in connection with sales tax revenues.

With regard to the Fire Department, Mr. Caldwell reported that again, as with Police, there was no sales tax revenue to be reported for the year. The bulk of their revenue was coming from the transfer from the General Fund to the Police Department. In addition, the Fire Department had obtained two Staffing for Adequate Fire and Emergency Response (SAFER) Grants, allowing them to start filling the mandated 20 additional positions quicker than they had envisioned when the Vision Tax had been repurposed. Through the first six months, \$530,000 was received from the first SAFER Grant alone, with the second one about to go into effect.

Fire Department revenue was just under what was expected since General Fund revenues were below budget, as was the case also, for the Police Department. Fire Department staff also received a 2.5% pay raise, as well. The first retroactive pay increase for the first seven months would be paid in February and so, a little over \$300,000 worth of expenditures were not reflected in his report of the first six months. The effect on the budget would be just under \$600,000 for the year. As with other City departments, the Fire Department was keeping its operating expenses just within budget and they were at nearly \$90,000 below what had been anticipated. The Department had a positive net income of just under \$650,000 for the first six months. Mr. Caldwell summarized that Fire and Police Sales Tax Funds were at a comfortable level and although they could be better, the City was not in trouble at present.

Reporting on the Broken Arrow Municipal Authority (BAMA), Mr. Caldwell stated that again, expenses were running below what they had expected for the year. Part of the reason for that had to do with timing since the Regional Metropolitan Utility Authority (RMUA) bills were not up to date. Current revenues were at almost \$800,000 above what they had budgeted for the first six months, which was a good sign. The rate increase approved by the City Council at their first meeting in December, would be going into effect in February, so the present report did not reflect rate increases was therefore, based largely on consumption factors. The Finance Department was happy with the small percentage differences between budgeted and actual year-to-date revenues for water, sewer, sanitation, and stormwater. Mr. Caldwell concluded by saying that subsequent updates would reveal the effects of the utility rate increases.

**B. 17-1809 Presentation regarding the road closure for Charleston Street in association with the Leisure Park Mill & Overlay Project**

Alex Mills, Direct of Engineering/Construction, stated that he was reporting on a street closure in connection with the Leisure Park subdivision addition, a 2011 General Obligation Bond project. A three-block stretch required full depth replacement, starting at Elm Street and proceeding westward. They had notified adjacent property owners and Broken Arrow Public Schools, along with the Police and Fire Departments. He anticipated that the road would have to remain closed for about three weeks. Residents, however, would be allowed evening-access to their driveways.

**C. 17-1626 Presentation by City Manager Michael Spurgeon on his assessment of the state of the City and its Public Trusts, observations, priorities, goals and objectives and related discussion**

City Manager Michael Spurgeon began by summarizing the State of the City presentation that he gave at the Chamber of Commerce Luncheon in December. Looking back at 2016, he wished to recapitulate what his initial priorities were as Broken Arrow's new City Manager. He thanked the Mayor, City Council members, department Directors, City staff, and the community for the support they had shown him from the start, adding that any successes he had achieved were attributable to everyone working together as a team. Looking back, from the beginning he said he would focus on three important facets he felt to be the foundation on which his tenure as City Manager would rest. The first facet was building relationships; he was well aware no one person could ever get everything done by himself alone. To that end, he embarked on a goodwill tour to meet as many citizens as possible, with an emphasis on those in leadership positions, in both the public and private sectors. His second focus was to learn how the City and Utility Department operated from day to day, and an important part of that was learning where they were with respect to

finances. Thirdly, he set about determining the condition of the City's infrastructure, with the goal making sure that the City had good, solid plans in place.

Mr. Spurgeon turned to a slide illustrating the breakdown of the City's operational income sources. He stated that as of January 1<sup>st</sup>, the City sales tax rate was 3.55 cents on every dollar spent for goods within city limits. As Mr. Caldwell had indicated in his report, of that 3.55 cents, 1 ½ cents went to the unrestricted General Fund, and they should bear in mind that although there were some savings from their expenditures, they were still down around 2% on projections for the first six months of the year. Another ½ cent was dedicated to the Sales Tax Capital Improvement (STCI) program, which was used for the day-to-day improvement projects done throughout the City. One cent was used as a guarantee of payment of BAMA loans, and as of January 1<sup>st</sup>, 0.55 cents would be allocated for Police, Fire and Street maintenance as a result of the Vision 2025 re-appropriation of funds voted in by Broken Arrow's citizens. One of the goals was to hire an additional 20 police officers and 20 additional firefighters, also. Receiving grant money as well, the Fire Department was in a position to move forward in that goal, along with the Police Department, which had already hired 5 police officers and was looking to add another 5. With regard to street maintenance, voters approving that dedicated increment would provide over \$3 million per year, tentatively, a figure which could go up too.

With respect to 2016 accomplishments, Mr. Spurgeon related that one of the first things he had become aware of was the need for a more effective organizational alignment. The Council passed ordinances enabling that reorganization and hiring of necessary additional staff. Mr. Spurgeon showed a slide of the organizational chart, delineating the divisions in the chain of command and accountability within City government. Mr. Spurgeon thanked the Council for their support of the reorganization, which was proving to be a success in streamlining operations and rendering City staff more efficient and responsive, judging from comments coming from the community. A second exciting accomplishment was with regard to Downtown redevelopment and revitalization, which was in its final phase and nearing completion. Recalling that the projects were funded through bond initiatives and Vision Surplus, Mr. Spurgeon lauded the Council's vision to utilize the funds for infrastructure that would facilitate private investment. Another noteworthy accomplishment in 2016 was completion of the BAMA rate study, as directed by the Council in order to determine the City's status with respect to its utilities, and particular, what type of rate model would be needed going forward, to fund operations and make necessary major reinvestments. He recalled that the study's completion culminated in the Council approving rate model recommendations given by Young Strategies in December 2016. Mr. Spurgeon was happy to report that through the realignment, and with the help of Assistant City Manager of Operations Ken Schwab and Assistant City Manager of Administration Russell Gale, along with the City Attorney Beth Anne Childs, they were able to remove a number of obstacles and implement processes and practices for completion of public projects. There had clearly been a bottleneck before, and he was confident that under the leadership of Mr. Mills and the other department heads, there would be lot of orange cones around town over the next few years, testimony that they were reinvesting the money the public had given them to rebuild Broken Arrow's infrastructure. Mr. Spurgeon stated furthermore, he was proud of the ongoing efforts to educate voters on the importance of shopping local, making them aware that every dollar they spent came back to them in reinvestment, in terms of services. As the Council was aware, another accomplishment was the creation of a new initiative to provide greater transparency in connection with government operations. The City was back on Cox Channel 24, hitting all the social media platforms heavily, under the leadership of Director of Communications Krista Flasch. It was just a beginning and they would be doing more, utilizing emerging technologies like the application Nextdoor, access of which was a 2017 goal. Another exciting accomplishment was completion of a street pavement index report, under the leadership of Streets and Stormwater Director Steve Arant. The report revealed that although there were still roads in need of repair, the City ranked highly, hitting a high benchmark of above 70 in the evaluation of road conditions across the City. Thanks to Mr. Arant and other departments involved, Broken Arrow's roads were overall, in very good and exceptional condition. They would be using the Vision repurposing to help address street remaining/ongoing maintenance issues. The report would serve as a guide in their continued efforts to keep the City's streets up to standard. Finally, they had succeeded in maintaining the City's very aggressive economic development program, fueling the economic engine to keep it going. Through the leadership of Norm Stephens, Assistant to the City Manager/Economic Development Coordinator, along with the Broken Arrow Economic Development Corporation (EDC), they were out every day trying to retain jobs, bring in new jobs and increase opportunities to shop local. Mr. Spurgeon concluded his highlights of accomplishments, saying he was very pleased with what they had achieved.

Looking at 2017, Mr. Spurgeon touched upon what was on the horizon for Broken Arrow, highlighting the top ten things he wished to bring before the Council for discussion. First and foremost was maintaining an emphasis on great City services and financial sustainability. Secondly, he wished to bring up for discussion the implementation of the

Vision 2025 Tax with respect to Police, Fire and street maintenance. Thirdly, there was the matter of continued reinvestment in infrastructure: there were currently 114 projects pending, in different stages, with a total value of \$100 million. Those projects included roads, stormwater, and big utility tasks such as the replacement of trunk sewer lines and modernization of plants. The Council had just added another \$18.2 million worth of bonds that were sold to fund additional projects. The fourth item that he would be sharing with the Council was completion of the initiative to develop a workable plan for the Rose District housing development and redevelopment, which presented many opportunities for sound investments. Number five on his list, was implementation of the tourism assessment recommendations made by Young Strategies, Inc. Sustainability was the sixth matter he would be following up on with the Council, specifically with respect to finalizing and implementing an option for a curbside recycling program for single-family residences. The seventh point to take up with the Council was an extremely important one that concerned the next round of bond obligations, so as to continue reinvestment in infrastructure. Eighth on his top ten list of matters to address was the continuation of aggressive economic development, with emphasis on providing many more jobs, more opportunities to shop locally, and more attractors like the new Rose District fountain, as well. Mr. Spurgeon remarked that he was excited that under the leadership of City Attorney Beth Anne Childs, along with Human Resources Director Jannette McCormick and Police Chief David Boggs, the City of Broken Arrow University (COBA-U) had been created to provide a training program for emerging community leaders.

In regard to other considerations he would be sharing with the Council, Mr. Spurgeon observed that Broken Arrow had a responsibility to take a position on certain legislative issues effecting its citizens. They had been working very hard with the state legislature to try to facilitate a pay raise for teachers. That was just one among several state initiatives that the Council had requested he look into or champion, on its behalf. He was also excited about partnerships they were considering forging with Tulsa Community College and Tulsa Tech for internship and apprenticeship programs that would provide employment opportunities. There were great educational institutions in the region and partnering with them would ensure that Broken Arrow had qualified applicants to fill open positions in the workforce. Another important consideration for him was helping facilitate the appointment of a new Oklahoma Municipal League (OML) Director. They would also be moving forward with Phase I in the creation of the Creative Arts Center, in which the Council and community would be investing from \$5 million to \$10 million. Mr. Spurgeon pointed out that every successful city in the country had made a commitment in some way, to art within their own community. Another consideration to note was the continued investigation into the City becoming a Court of Record. Finally, the Council had tasked him with drafting a report on the condition of City facilities and the potential for future expansion of facilities.

In conclusion, Mr. Spurgeon touched briefly on three main challenges he saw facing the community at present. The first was to help the state legislature understand that the state tax revenue model currently in use for funding cities, was overly dependent upon sales tax for operations and did not, in fact, reflect the way people shopped in the 21<sup>st</sup> century. He informed the Council that earlier in the week, Amazon.com, in a major move, announced it was going to start charging sales tax on Internet purchases. Secondly, there was the challenge to implement the Capital Reinvestment Plan for the City's utility systems, a total of \$140 million over the next seven to ten years, toward infrastructure. It would take a lot of coordination and a lot of work on their part to stay in compliance until the City's facilities were upgraded. Finally, Mr. Spurgeon related that he had the opportunity the night before at the Woodmeadow Homeowner's Association meeting, to talk about one of their biggest administrative challenges as a community. That challenge involved making sure that they managed the community's growth and expectations with its delivery of services. As the City grew, they would need to make sure that the community understood the cost of services and to ensure that City staff was able to communicate the importance of continuing to reinvest, in order to maintain the great quality of life they presently enjoyed.

Mr. Spurgeon thanked the Council and departmental Directors for their support. He thanked the community for welcoming him and his wife. He was looking forward to a very busy and successful year.

Councilman Eudey expressed his appreciation and commended those working so hard to keep expenditures down, especially since sales tax revenues had essentially, been flat. He was pleased that they were getting so many of the projects residents voted for moving and commended Mr. Spurgeon and the City's excellent staff in that regard.

## **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. 17-1783**

**Consideration, discussion, and possible approval and authorization to execute a Consent Order with Blue Bell Creameries, LLC requiring them to hire a licensed engineer, construct a pretreatment facility and come into compliance with Broken Arrow Wastewater Discharge Permit No. BA007, and waive the accumulated surcharges upon satisfactory completion of all required actions**

Ken Schwab explained that the item under consideration was with reference to possible approval to execute a Consent Order with one of the City's Significant Industrial Users (SIU), Blue Bell Creameries. As background, Mr. Schwab recalled that the City owned and operated two wastewater treatment facilities: the Haikey Creek Plant, co-owned jointly with the City of Tulsa as a part of the RMUA, and the Lynn Lane Wastewater Treatment Plant, as sole owner. At the federal and state level, they were required to have a permit since the City treated and discharged effluent to a receiving body, the Arkansas River. The permit also required them, according to population and the type of industry they had in the community, to establish, implement and operate a pre-treatment, industrial program. They had been doing that for years and in November 2012, the City issued a permit to Blue Bell Creameries, as an SIU. Mr. Schwab related that the City had ten or twelve users at the SIU level, categorized as such because of their production process and high waste load. In March 2013, they started a high waste load coming into the system and the concern was that once it got to the plants, the plant waste load would spike. The City allowed that process to continue for a while. Then in June 2016, the City reached out to them, given that their process had stabilized and they had adjusted production. The City approached them with the goal of cleaning it all up. The plants had been forthright and forthcoming with respect to their data, which also matched the City's own data very closely. They talked about some different processes they wished to implement at their end. Through that negotiation process, he and staff drafted the Consent Order before the Council. Mr. Schwab added that Blue Bell had proved a wonderful, civic-minded partner.

In connection with the Consent Order, Mr. Schwab specified that there were surcharges and penalties put in place when the City and Blue Bell sat down and put together a timeline. There was a \$10,000 penalty, with the Blue Bell paying \$5,000 upfront and taking \$1,000 per month over five months toward the \$10,000 penalty. Applicable surcharges to the City from March 2013 to the present totaled about \$350,000. He explained that they would continue to accrue until the new process at the present plant site was constructed, before they began dumping into the City's system. He explained further that the whole point of surcharges in the City system was that if a user came in and was not going to pre-treat at their end, then they would be obliged to pay for the increase in waste that the City would have to address and treat. The City was setting the money aside toward a future treatment processing system of its own, and the site would be at the Lynn Lane plant. Mr. Schwab specified that the Consent Order would allow them to waive those fees authorize Blue Bell to take the \$350,000 and accrual, and apply the funds to the treatment process at their plant. He noted also, that the first task for Blue Bell was to hire a fact-finding consultant and in fact, the day before, they had turned in a draft of the report going well beyond fact finding, submitted well before the March deadline. The completion date of January 2019 would allow Blue Bell enough time to submit the final report, figure out the process they wanted to implement, do the design and construction. It would all be done within a normal timeframe. Lastly, Mr. Schwab pointed out that as per the City's permit, they were required to treat, whether at pre-treatment level or otherwise. They had not been out of compliance at the plant. Being in compliance was taxing the system somewhat, but they would continue over the next two years, until construction process was implemented. He added that the Oklahoma Department of Environmental Quality (ODEQ) had reviewed the Consent Order and had complimented them on it.

Councilor Parks stated that this has been something the City and Blue Bell has been aware of from the start and that it has been monitored by both Blue Bell and the city.

Eudey wanted to clarify that the 350,000 that would come to us, would be used to implement a treatment regimen at our facility and by allowing them to redirect those funds back to them they could implement their own facility or process.

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

**Move to approve the Consent Order and authorize its execution and waive the surcharges upon successful completion of all required tasks**

The motion carried by the following vote:

**Aye: 5 -**

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

**B. 17-1768**

**Consideration, discussion, and possible approval of an exemption for an 11.48 acre conservation area reserve of FedEx from Section 24-705, Excess Capacity Sewer Fee charge, quarter mile east of 9th Street and north of Houston Street**

Director of Development Services Michael Skates reported that the item before them entailed a request from FedEx for an exemption of approximately 11.5 acres of a Conservation District. The area on the east side was basically non-developable. He

explained that there was a small tributary running through the property, running north and picking up on a drainage area. The Army Corps of Engineers had been tasked with work in the area, in the past, since it showed up as blue line, and they had recommended designating it a permanent Conservation District. Technically, there was a floodplain associated with the small tributary. As such, they had requested exemption of the Excess Sewer fee, which was \$700 per developable acre and went toward infrastructure improvements related to sanitary sewer. Mr. Skates stated that the applicant was present if the Council had questions that he himself, could not answer. It was requested that the exemption be approved by the Council.

Councilman Eudey stated that according to his understanding, there was also a restrictive covenant in the deed, prohibiting future development of any kind, precluding any changes on the part of the government.

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

**Move to approve the Excess Capacity Sewer Charge exemption for the 11.48 acre Conservation District Reserve associated with FedEx's development**

The motion carried by the following vote:

Aye: 5 -

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

C. 17-1737

**Consideration, discussion, and possible approval of Comprehensive Plan Change request, BACP-159, Mulich Tract, 50.13 acres, Level 3 to Level 6, one-half mile east of Evans Road, one-quarter mile south of Kenosha Street**

Mr. Skates reported that BACP-159 was a request to change the Comprehensive Plan designation on 50 acres from Level 3 to Level 6. Level 3 was a transitional area and Level 6 was a regional employment/commercial area. The property was presently zoned A-1 agriculture. Mr. Skates recalled that part of the northern section of the property associated with BACP-159 was rezoned to CH through BAZ-1727, approved by the Council on September 5, 2016, subject to platting. That portion of property was never platted, therefore, the zoning remained A-1. According to the applicant, about half-way between Kenosha Street and the southern boundary of the property associated with BACP-159 was a former landfill leased by the City. It had been used earlier for strip coal mining operations earlier, beginning in the 1920s. The tract, as well as the entire site, was regulated by the ODEQ and would require approval of ODEQ before any development activities were initiated. Mr. Skates informed the Council that the applicant and the environmental specialist, along with the developer, were presently working closely with ODEQ on the requirements for development. If BACP-159 were approved, the applicant would seek to change the property's zoning to IL, Industrial Light. IL was in accordance with the Comprehensive Plan in Level 6 when done in conjunction with a Planned Unit Development (PUD). He related that a draft PUD was submitted for informational purpose only. Within the PUD was an exhibit Brownfield Program Tract in reference to the ODEQ Brownfield Program, which assisted the existing property owner in reviewing environmental concerns on the subject property. The draft PUD, which was for 71.94 acres, divided the property into seven tracts, A through G. Furthermore, a cul-de-sac street was proposed to be constructed in a north-south direction through the property's center. The Planning Commission, in their meeting of January 12<sup>th</sup>, reviewed it and recommended approval of the Comprehensive Plan change in question, subject to the conditions recommended by the Planning Commission and staff. There were several citizens who spoke up against the project, voicing their concerns on drainage into the adjacent tributary of Adams Creek, running north into the neighborhood, citing possible radiation and toxicity leakage. They were also concerned with whether ODEQ studies had been conducted and reported. The PUD contained information regarding the possibility of hazardous waste being placed on the property in the vicinity of Tract 2A, in the northeast corner. However, he believed that other communities might have deposited waster there, also. Mr. Skates stated that the applicant was on hand and wished to speak prior to citizens having the opportunity to speak. The applicant might wish to follow up with Council following the citizens who would be speaking, as well. Nevertheless, it was recommended that the Council approve the development, while staff continued to work closely with the applicant on the types of industrial area that could be developed, and the ODEQ regarding approval and assurances that nothing from the landfill could get into the adjacent stream.

Mr. Tim Terral of Tulsa Engineering and Planning Associates, Inc. addressed the Council, stating that his firm was in agreement with Mr. Skates' and staff's recommendation. Given the fact that the land had been deemed unsuitable for residential development, and that Lever 3-transition had a residential component, they felt that Level 6 and IL zoning would make the most sense. He stated that Derek Blackshare of Blackshare Environmental Solutions, would be able to address the environmental issues more in detail. However, stormwater runoff was always a big concern for surrounding property owners. Being a former landfill for non-hazardous solid waste for just a few years, any issues with the site would probably stem from the strip mining operation that had taken place there. They would begin complying with the City's stormwater requirements, which would protect homeowners downstream from any type of increase in runoff. On-site attention was required for the site. In respect to the type of runoff, he could only say that they did not



think there were any issues with stormwater runoff coming from the site in terms of contaminants, and such. They were required to construct buffers and a 30-foot landscape buffer was proposed along the south and east, in the draft PUD. Their goal was to preserve much of the native landscape, including trees, in the area. Also required in the PUD was an opaque 8-foot screening fence; trees would be planted, as well. With regard to topography of the site, in answer to a question by Councilman Lester, Mr. Terral indicated that the project had a ridgeline running on the east side, which would drain mostly to the west where detention facilities would be located.

Derek Blackshare stated that he had a long history with the property in question and reiterated that the property was used for a time in the 1970s as a landfill for residential household trash. He informed the Council that the back tracts of the property, Tracts E and D, had already been issued a Brownfield's No Action Certificate by the ODEQ, and declared free and clear of the operations of the landfill. Mr. Blackshare recalled work he did in the early 1990s, with respect to orange residue that had shown up in a ditch along Kenosha Street and also in the Adams Creek in the west. The results of a study found that the sludge and residue was not a result of landfill operations, but a result of the strip mining in the area. With regard to getting the Brownfield Certificate for Tract 2, ODEQ required them to do a study of the property to the west and Adams Creek. The study showed no effect of runoff from the landfill getting into the Creek or any other runoff areas. Summarizing, Mr. Blackshare updated the Council that his firm had met that day with ODEQ to work on Tract 2, No Further Action Certificate for the Brownfield's and it was proceeding, with expectation of the Certificate to be issued shortly. As stated, the main restrictions were no residential and no groundwater use on the property. They expected that for Tract 2, as well as if development dug into the refuse. As Mr. Skates indicated, the road shown on the map diagram was designed to stay out of the refuse, going over it. Mr. Blackshare went on to report that in general, the refuse was buried four to five feet deep as such, was fairly safe and free of any impact of stormwater runoff. ODEQ did wish to address vapor intrusion, so that they didn't have any collection of methane, which was a safety concern, and that was the purpose of that day's meeting.

In response to Councilman Lester's request that he talk a little bit about Tract 2A, Mr. Blackshare pointed it out as Tract B, a set-aside tract that had some possible radioactive deposits, which had been isolated as Not-To-Be-Developed or addressed at present. In answer to a question asked by Councilman Eudey, Mr. Blackshare expanded on his continuing involvement in the project with respect to avoiding any issues with ODEQ. He stated that first off, when a developer or anyone interested in any of the parcels was identified, his company would meet with them, providing them with the exact requirements for that tract, including compliance with the Soil and Waste Management Plan. They would be advised on what they had to do if they broke ground and dug into the refuse, and on training their people on the correct manner in to dispose of refuse. This entailed taking precautions in connection with utilities and ongoing monitoring associated with the Brownfield Certificate.

Mr. Blackshare confirmed to Councilman Parks that if the land were developed, actions would be taken to lower the permeability of groundwater on the surface of landfill.

Mayor Thurmond stated that several citizens had signed up to speak on the matter under consideration.

Robert Redden of 6630 South 218<sup>th</sup> East Avenue, stated that he Chairman of the Watershed Committee of the Timberbrook Homeowners Association, Timberbrook lying directly north of the property under consideration. He wished to clarify that they had not had verification of what was contained in the landfill. Secondly, he wished to point out that the creek that ran on the west side, referred to repeatedly as Adams Creek, was actually an unnamed creek. They had discussed the matter with Jeff Bigby, Stormwater Manager, who confirmed that it was not in fact, Adams Creek. It was also incorrect to say that it ran south, when it ran north under 71<sup>st</sup> Street, straight into Timberbrook, the source of his concern. Mr. Redden explained that he was not taking a stand against development, but was concerned about the proposed development under consideration being conducted in a responsible manner so that they would not be subjected to excessive runoff into the creek flowing behind Timberbrook's homes, or worse, exposure to toxic waste from the landfill from runoff. Pointing out that the natural slope of the land was to the west, he added that all of the work that had been done already by the landowner raised concern since they had been told that it would only be enough to build a construction facility, a building, and a pad for equipment. Contrary to what they were told, there was considerable clearing, grading and tree removal going back over a quarter mile, back into the tracks off 71<sup>st</sup> Street. Although the excavation didn't look too deep, there was concern about traffic already proceeding on top of the landfill, before development had even begun. The write-up on the tract was inaccurate stating that, as well, stating that it was located east of Evans Road, while it was west of Evans. Mr. Redden recalled that they had experienced excess flow from the creek before, causing flooding problems.

He ended by specifying that the unnamed creek ran into Timberbrook, meeting Adams Creek at the site of their horse stables.

Claud "Pete" Travis of 6635 South 218<sup>th</sup> East Avenue, stated that he was a 40-year resident homeowner of Timberbrook and President of the Timberbrook Homeowners Association. His primary concerns about the development were pollution and water flow since his house backed up to the creek. He noted that for the past 40 years, after nearly every heavy rainfall, he would find debris in the creek, including old soda bottles, jars, medicine bottles, old rusty objects, and even bricks and other construction material. He was worried about what would happen if the landfill was not properly dealt with. He was eager to see good development in the area, but he would like to see his property in a natural, pristine condition. In addition, the creek ran through nearly a quarter mile of park and children played there regularly. Mr. Travis added that he had read the scientific report referred to earlier, and he agreed with the findings, to the degree of his understanding. Mr. Travis turned to water flow as a concern with respect to the property. He recalled that 20 years ago, one inch of rain would cause the creek to rise a foot as it reached Timberbrook. At present, the same amount of rainfall was causing the creek to rise by two feet. Mr. Travis related that in the past nine years their clubhouse had been damaged extensively by flooding on two occasions. He reiterated that he was not against the development and progress; on the contrary, he viewed it as an opportunity. He asked that the Council look at the City's water detention standards and look closely at the standards of the ODEQ, and consider Timberbrook. He suggested that it was better to err on the side of caution, bearing in mind the serious consequences of pollution and flooding.

Larry Wilkinson of 6501 South 241<sup>st</sup> East Avenue, addressed the Council, having read the report of Tulsa Engineering and Planning Associates. In reading the report, he realized that Tract A had been designated by Blackshare's report as having areas of excess radiation. He stated that there was a pond on his property and Adams Creek flowed through the property. As such, he had legal rights to part of the water. When the pond went down from lack of rain, he would pump water out of the Creek into his pond for his grandchildren to play. He had also read the Certificate of No Action Necessary, as well as the Brownfield Proposal Report. Mr. Wilkinson commended the two citizens who had preceded him on a job well done in presenting concerns he and his neighbors shared. Citing a statement he had prepared, Mr. Wilkinson requested that the City require the contractor to draft and submit an environmental "Best Management Practice" plan. Mr. Wilkinson read that the contractor must be required to describe the controls (e.g. silt fences, hay bales, etc.) that would be put in place to eliminate soil migration. Furthermore, the plan should require the construction company to conduct a visual inspection each day to the entire property, to ensure that controls were in place and free from damage. If damaged, repairs should be effectuated before resumption of construction. In point 2, Mr. Wilkinson requested that the City hire a consultant to conduct site inspections on a weekly basis, ensuring that construction company adheres to the "Best Management Practice" plan. In conclusion, Mr. Wilkinson stated that his concerns were with water detention and all the impermeable surfaces that would be placed at the site. He would like to see the Council and Engineering/Construction Department perhaps, see if they might be able to increase the amount of detention that was going into the City's creeks, if possible. His home counted as his largest asset and anytime it was damaged by water and so forth, it decreased what had taken him a lifetime to build.

Mayor Thurmond invited the applicant or the City Manager to address the issues mentioned, if they so wished. He stated that the federal government's Clean Water Act and the OKR10 required silt fences. He assured that the City's inspector was normally on the scene at active jobs on a daily basis, to make sure that erosion control devices were properly installed and maintained.

Returning to comment further, Mr. Skates stated what the Mayor had mentioned made up part of the Stormwater Pollution Prevention Plan and what was called and SP3. If the proposed Comprehensive Plan Change was approved, moving forward, it would be one of the engineering plan requirements. Mr. Skates said that all that the Mayor had said was correct, commenting that they had worked very closely with the developer and his engineers on the project and he thought they had established a great PUD.

Councilman Eudey inquired, with regard to what the landfill contained, whether that could be done, if they had not done it already. Mr. Skates called Mr. Blackshare to reply. Mr. Blackshare stated that there had been a number of studies conducted, the first being done back in the 1990s, where they excavated with a backhoe and tested for chemical content and tested in the creek and/or out in the ditch off 71<sup>st</sup> Street. The results exhibited no match, the landfill consisting largely of plastic bags, brick, wood, glass, and other non-hazardous household materials commonly used in the 1970s.

In answer to Councilman Parks inquiry on ownership of the former landfill, City Attorney Beth Anne Childs said she seemed to recall that it was leased, and not the City of Broken Arrow's landfill. Councilman Parks wondered if they could not leave in place the existing

four feet of ground above the landfill, without disturbing it. He suggested that they might look into a way of building up the ground above. Mr. Skates replied that his recommendation could be added to the PUD, adding that he thought it was implicit in the PUD already, in its restriction of the property to light industrial use. What he was proposing was also dependent upon the size of the building/structure that would be constructed, and on the type of footing or slab requirement. Typically, a builder would try to go down to bedrock and bedrock at the site would probably not be very deep. Councilman Lester asked whether the City would be monitoring that or the City. Mr. Skates answered that it would be the developer's responsibility, confirming that it would be a requirement that the City placed on them, and in conjunction with the ODEQ, as Councilman Eudey had observed. He clarified that no permit would be issued without proper review by and approval on the part of ODEQ. He added that the City would do all inspections of buildings and structures. Mr. Skates confirmed to Councilman Lester that the City would be present when the developer did piling, and so forth. He noted that there was staff in place from the different departments, including Utilities, Development Services, Engineering/Construction, and the Assistant City Manager's Office, that could perform inspections. Mr. Skates also confirmed Councilman Lester's observation that the proposed project would involve more monitoring than normal, adding that it was a sensitive issue given the history of the site use and the circumstances of how it might affect the public. Councilman Lester asked if Tract B, in green on the map, would be fenced off as a precaution against unauthorized use. Mr. Skates said that a fence could be put around it, if the PUD did not already require it. He pointed out that a perimeter fence was required around Tract C.

Mr. Terral provided a summary of the status of the tracts in relation to fencing. Mr. Skates added that signage should be utilized in those areas as a warning, as well. Mr. Blackshare affirmed that Tract B was already fenced off with a gate on the Kenosha side, as required by ODEQ. Councilman Parks inquired about runoff from that tract, which had been isolated as radioactive. Mr. Terral answered the drainage ran from the east side to the west side and obvious there was stormwater that ran off that tract, although the site was not steep. Tract B would remain isolated until a potential developer decided to address proper disposal of any radioactive material.

Councilman Eudey summarized that all they were being asked to do that day was consider a change in the Comprehensive Plan. Mayor Thurmond added that they would address the PUD and zoning at subsequent City Council meetings. Councilman Parks stated that he had lingering concerns about Tract B, and would vote "yes," on the item, if the PUD stipulated monitoring of runoff from that tract. There was agreement by all on the importance of taking environmental issues into account with regard to development of that particular property.

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

**Move to approve BACP-159 subject to the property being platted and a PUD being submitted that is similar in content to the draft PUD submitted, as well as to the comments made**

The motion carried by the following vote:

**Aye: 5 -**

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

**D. 17-1755**

**Consideration, discussion, and possible approval of PUD-256 and BAZ-1969, Whiskey Ridge, 142.16 acres, A-1 to RS-3/PUD-256, southeast corner of 23rd Street and Rockford Street**

Recusing themselves, Mayor Thurmond and Councilman Lester left the room at approximately 8:19 p.m.

Mr. Skates stated that the item was a request for PUD-256 and BAZ, which was Zoning-1969, on Whiskey Ridge, a 142-acre subdivision containing approximately 150 lots from a designation of A-1 to RS-3. Pointing out that 23<sup>rd</sup> Street was County Line Road or 193<sup>rd</sup> Street, and Rockford Street was 31<sup>st</sup> Street, he reported that they had met with the applicant and there was a PUD on the project. It called for single-family, RS-3, with lot sizes adjusted to a width of 65 feet. The construction of homes was planned to take place in two phases lasting from 5 to 10 years, depending on the economy. The property was designated Level 2, and greenway floodplain, in the Comprehensive Plan. RS-3 zoning was considered to be in accordance with the Comprehensive Plan in Level 2. Mr. Skates explained that the 100-year Floodplain, part of Spunky Creek, and would be left as Open Space, in accordance with the Comprehensive Plan. He pointed to a drawing, indicating that Spunky Creek drained north, picking up an area south from around Omaha or 51<sup>st</sup> Street, moving north past 41<sup>st</sup> Street or Dearborn Street, then running roughly parallel to County Line Road or 23<sup>rd</sup> Street. The Creek meandered across 23<sup>rd</sup> St./County Line Road, as it began to move northward, culminating at Bird Creek. Mr. Skates reported that the Planning Commission meeting on the subdivision focused primarily, on drainage and local traffic. There were problems already with traffic flow in the vicinity of 31<sup>st</sup> Street and 41<sup>st</sup> Street on County Line Road. He recalled that just south, they had worked with a developer

and Walmart on a Neighborhood Market, putting together a Memorandum of Understanding (MOU) with them and working closely with Tulsa County engineers on improvements at both intersections and the roadway itself. The County had originally included in their program both intersections and two miles of roadway to be widened to five lanes, from 31<sup>st</sup> Street to 51<sup>st</sup> Street. However, in a change of program, they removed the two-mile roadway stretch from the plan, focusing instead on improvements at the intersections, which would be similar to improvements they could make on 51<sup>st</sup> Street on County Line or Lynn Lane. Speaking at the Planning Commission and following up with Tom Raines, Tulsa County Engineer, he was able to ascertain that 31<sup>st</sup> Street and 41<sup>st</sup> Street had been approved. They were working toward Tulsa County's obtaining the funding for the surplus Vision money. They planned to begin work at 41<sup>st</sup> Street and County Line Road within the next few months. He and his staff would be meeting with the County, which would be putting a new surveyor's tool, LiDAR, in place and then, move forward with the design for improvements at the intersection. Matters were complicated, however, by the fact that the majority of roadway between 41<sup>st</sup> Street to 31<sup>st</sup> Street was in the floodplain. Mr. Skates related that he contacted Tulsa County to verify if a master drainage plan been devised for Spunky Creek. He discovered that there was indeed a very detailed master plan not only identifying the floodplain and floodway, but also every structure along the Creek and what should be placed there if that structure did not convey the 100-year storm, and the cost associated with it. There was not plan, at present, to widen it, however, they were hopeful that in coming fiscal years, they would be able to move forward with that project.

Mr. Skates stated that for site itself two detention facilities would be created. The main entrance off 23<sup>rd</sup> Street, as you came into the project would be a kind of commercial boulevard leading to a green area, containing a pool house and playground area. Along County Line Road they would be clearing brush and undergrowth, leaving it otherwise, in its natural state. The development's water was Rural Water 4 and sanitary sewer was from Green Country Sewer Service. Referring to the map drawing on the screen, Mr. Skates pointed out Green Country's wastewater treatment plant in the southeast corner of the property and stated that on the east boundary was a large Public Service Company of Oklahoma (PSO) transmission line, where a substation could possibly be located. He added that the consultant was working with PSO to determine if a road was required there. He pointed to the neighborhood off to the east, identifying it as Renaissance Park, developed and still remaining in the county. He reported that at the Planning Commission meeting, several residents of Renaissance Park spoke on drainage. He believed that the consultant would look at the fact that they would have to take the drainage coming from Renaissance Park, but also take into account 31<sup>st</sup> Street or Rockford along the north boundary, for what might be happening with regard to water going through the bar ditch and possibly overtopping the roadway. Thus, there could be opportunities there to address some issues as they moved forward with engineering. Mr. Skates concluded his presentation by stating that the applicant was present and might wish to speak following the citizens who had signed up to speak.

With regard to traffic, Councilman Eudey asked if the need for deceleration lanes had been discussed. Mr. Skates replied that they hadn't gotten to that point yet and the traffic patterns had not been evaluated. He submitted that a deceleration lane might be required by Code; however, if it were not required, it wouldn't be necessary. Mr. Skates reiterated that they were looking at a five-to ten-year phased in building plan. It was hoped that if it were approved, the improvements he referred to earlier would be addressed, and possibly, other development in the area would speed up street improvement plans.

Vice-Mayor Carter stated that one citizen had signed up to speak on the item under consideration.

Tammy Walker of 19617 East 36<sup>th</sup> Street, addressed the Council members present, pointing out that there was a couple that owned a farm on 31<sup>st</sup> Street, which had received communications from the City, though they were not actually situated within the City. She asked that the Council allow them to speak following her own remarks on the subject. Ms. Walker stated that her property backed up to the green belt by the Steeplechase Housing Addition. She indicated that the Steeplechase and Steeplechase Farms neighborhoods already had significant, ongoing flooding issues due to the neighboring Glen Eagles Luxury Townhouses not having sufficient detention ponds. There was a need for a greater number of detention ponds in the plat for the new Whiskey Ridge, than just two in the area, for 450 houses. They were especially needed in regard to the south side near Steeplechase Addition. In her 18 years residence she had experienced standing water even in dry weather and the attendant mosquito problem in summer, along with significant flooding several times a year, which had led to crumbling bricks at the entrance of her development. She specified that the flood conditions existed at County Line Road between 31<sup>st</sup> and 41<sup>st</sup> Streets. She felt it was a problem that needed to be addressed before construction of further housing additions. The regular traffic bottlenecks in the area needed to be addressed beforehand, along with the problem of fire and police vehicles blocking their

entrances/exits as a consequence of periodical flooding. She added that in connection with PSO, they had problems with electricity, especially for Renaissance Park in summer. Ms. Walker went on to say that there was no security around the Green Country sewer, and her time to speak being up, she stated that she wished them to know that there were several more issues concerning her.

Michelle Robertson, owner of the farm on 31<sup>st</sup> Street that was situated within the confines of the City, stated that flooding was a problem all around her. She wanted assurance that there would be close oversight of construction in the neighborhood by the City, with regard to flooding and stormwater management, in order to avoid the creation of bigger problems. Also, addressing traffic problems mainly at the intersections and switching priorities from the much-needed widening of the road, puzzled her.

Alan Betchan of AAB Engineering, LLC, stated that they were the engineers and surveyors for the project. He related that the biggest concern that they constantly encountered was drainage, especially with regard to a project of the size the Council was considering. He was aware of the existing floodplain issue along 193<sup>rd</sup> Street/County Line Road, due to Spunky Creek's meandering course. Those were macro-issues that would have to be addressed with the road improvements the County was planning ultimately, to do. Their place in the watershed did not put them in a position where they were really addressing overarching floodplain issues, the main problem for Spunky Creek. With reference to drainage from their project specifically, they were required to adhere to the City ordinance on drainage and runoff, and post-discharge rates would be less than peak creek and all storms. They would be providing a full analysis as part of the civil engineering plan. Mr. Betchan explained that particularly with the farm property on 31<sup>st</sup> Street that was left out, one of the things rather unique to the tract was the existing pond roughly where the larger, middle pond was proposed on the site plan. It all funneled, generally, coming to an initial draw that came across the back of the farm property, and then back out and over to the Creek. One of the things that could benefit the system as it was, was their piping the water from the south pond to the north pond, and then directly over to the Creek, thereby diverting water that had been running up and down the back. There were large flat spots, as well, causing standing water issues, especially off to the east. All that was remedied whenever they began building and putting in street and stormwater infrastructure to facilitate drainage. Mr. Betchan pointed out that one of the things they were looking at as part of that, was 31<sup>st</sup> Street posed a somewhat unique drainage issue at present. There was a bar ditch but it appeared that most of it was overtopping and flowing north to Spunky Creek. They would improve the section in front of the development to facilitate drainage and improve conditions there. Obviously, bar ditches were not designed to convey 100-year rainfalls.

As far as traffic was concerned, Mr. Betchan there was always an issue with development and timing relative to the infrastructure being put in place. It was a matter of arterials and unfortunately, funding being what it was, they very rarely got the opportunity to do an ultimate rebuild of arterials prior to a demand for it being there. Knowing that the problem had been identified, was being discussed, and that the remedy was in the fiscal planning process, was a big part of the battle that already been won in connection with the project in question. Mr. Betchan went on to state that remedial work at the intersections would improve overall traffic flow by leaps and bounds. It was a logical place to start before widening the road.

Referencing Green Country Sewer, Mr. Betchan observed that it was kind of a unique area in that it was Rural Water 4. It was what it was and they didn't get to choose who was contracted for those services. The water districts were what they were and sewer services were available through Green Country. The company had made significant plant improvements, which, to his understanding, were coming from their present Consent Order with ODEQ. They had already provided a Will Serve letter, stating that they had the capacity to take on the houses included in the project per ODEQ. Thus, their capacity issues had been resolved according to ODEQ's standards. Mr. Betchan emphasized that it was a unique project with a unique developer who really wished to bring the high-end amenities of housing in the \$250,000 to \$400,000 range, down to the first time mover and entry level homes. It would include a playground, a pool, and a park. The developer was already engaged in doing the boulevard-type entry, which added to a level of amenities not normally seen. All in all, it was a project which he thought would benefit the City and fulfill the need for a certain level of housing.

In reply to a question by Councilman Parks on the ponds, Mr. Betchan clarified that they were staged ponds, so that the southern pond would flow to the northern pond through the storm sewer, and then, via storm sewer, it would run along the southern line of the out-parcel of the farm, the northern line of the two cul-de-sac, and discharge in the green space to the west, which was the true tributary. Mr. Betchan also confirmed to Councilman Eudey that there would be right-of-way and they were platting the easements to accommodate it.

In reply to a question from Councilman Eudey regarding the electrical aspect of the project, Mr. Betchan alluded that it was complicated. He pointed to notch in the southeast corner on the map, saying it was a parcel that PSO had already acquired specifically for a future substation. PSO had a 100-foot easement along the eastern boundary that contained transmission lines, which also provided for vehicular access. AAB Engineering was in discussion with PSO about the east cul-de-sac. AAB Engineering argued that instead of stopping it there, eliminating their need for an unmaintained right-of-way going cross country and behind yards, and stoving the coal right into what would ultimately be their substation. They would then be able to clean up those areas they had formerly used. Although PSO was required to provide service and that was not under AAB Engineering's control, nevertheless, AAB was in communication with PSO on how it could best access the infrastructure that were currently available to them with respect to the parcels.

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

**Move to approve PUD-256 and BAZ-1969, Whiskey Ridge, subject to recommendation of the Planning Commission and staff, and the property being platted**

The motion carried by the following vote:

**Aye: 3 -**

Scott Eudey, Johnnie Parks, Richard Carter

**Recused: 2 -**

Mike Lester, Craig Thurmond

Mayor Thurmond and Councilman Lester returned to the room at approximately 8:47 p.m.

**E. 17-1818**

**Consideration, discussion, and possible approval and authorization to execute Resolution No. 962, a Resolution of the Broken Arrow City Council approving and authorizing execution of a certain First Amendment to Economic Development Agreement by and among the Broken Arrow Economic Development Authority, the City of Broken Arrow and Shawn and Gretchen Whistler ("Whistler"); and containing other provisions relating thereto**

City Attorney Beth Anne Childs recalled that the Economic Development Agreement was entered into several years before, explaining that one of the reasons they were recommending the Amendment was because the City was going to have to make pretty substantial investment in terms of infrastructure. They'd already committed to bringing utility services up to the property lines and constructing a detention pond, but had since determined that it was not all that was necessary. However, in exchange for that, it was recommended that Council allow the Whistlers to change two of their existing billboards, which are non-conforming uses clearly, not allowed by the code, but from a change of copy to a digital format. One of them was located on the property and the other was located at the Elm exit. Staff concurred that it was a good Resolution that enabled the City to move forward, the digital format having become the wave of the century, it will enable the Whistler to make some additional funds, certainly. The only other requirement the City would have to make was the removal of trees on the site. It was requested that Council approve Resolution No. 962 and authorize its execution.

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

**Move to approve Resolution No. 962 and authorize its execution**

The motion carried by the following vote:

**Aye: 5 -**

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

**F. 17-1797**

**Consideration, discussion, and possible approval and authorization to execute Resolution No. 971 - CORRECTED requesting programming of Federal Fiscal Year (FFY) 2020 Surface Transportation Program (STP) funds**

Ms. Childs explained that the Resolution remedied a prior scrivener's error. Resolution No. 971 contained an error in construction costs. Since the Resolution did involve federal funding, staff thought it prudent to have the Council approve Resolution No. 971 - CORRECTED. It was requested therefore, that Council do so and authorize execution of the Resolution.

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

**Move to approve Resolution No. 971 - CORRECTED and authorize its execution**

The motion carried by the following vote:

**Aye: 5 -**

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

**G. 17-1775**

**Consideration, discussion, and possible approval and authorization to execute Resolution No. 972, a Resolution authorizing the City Attorney to enter into the Final Journal Entry of Judgment without admitting liability in the matter of QuikTrip Corporation v. City of Broken Arrow, et al., Tulsa County District Court Case No. CV-2017-00006, authorizing foreclosure and vacation of utility easement on property located in part of Lot Two (2), Block One (1), Hillside Crossings, a subdivision in the City of Broken Arrow, Tulsa County, State of Oklahoma, generally located north of the Broken Arrow Expressway and west of 9th Street**

Ms. Childs reported that the item was actually a resolution that had been before the Council in the form of an ordinance of closure. Ordinance No. 3457 actually closed the utility easement. She explained that a lot of businesses came back and filed foreclosure action, clearing title to the property. As the Council had already approved it and supported the recommendation as per the utility company, it was requested that Council approve Resolution No. 972 and authorize its execution.

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

**Move to approve Resolution No. 972 and authorize its execution**

The motion carried by the following vote:

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

- H. 17-1795** **Consideration, discussion, and possible approval and authorization to execute Resolution No. 975, a Resolution approving action taken by the Broken Arrow Municipal Authority authorizing the issuance of its promissory note in principal amount not to exceed \$7,185,000 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**

Ms. Childs requested that Council table items H and I until after the Broken Arrow Municipal Authority meeting.

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

**Move to table items H and I**

The motion carried by the following vote:

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

Following the meeting of the Broken Arrow Municipal Authority, the City Council returned to consider item H, as requested. Ben Oglesby of Municipal Finance Services stated that the Resolution under consideration was the companion item of the one just approved by BAMA.

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

**Move to approve Resolution No. 975 and authorize its execution**

The motion carried by the following vote:

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

- I. 17-1796** **Consideration, discussion, and possible approval and authorization to execute Resolution No. 976, a Resolution approving action taken by the Broken Arrow Municipal Authority authorizing the issuance of its promissory note in principal amount not to exceed \$21,000,000 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**

Following the Broken Arrow Municipal Authority meeting, the City Council returned to consider item I, which had been tabled. Mr. Oglesby stated that the item should be considered in relation to Resolution No. 974, which had just been approved by BAMA.

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

**Move to approve Resolution No. 976 and authorize its execution**

The motion carried by the following vote:

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

- J. 17-1810** **Consideration, discussion, and possible approval and authorization to execute Resolution No. 977, a Resolution of Necessity to condemn property located at 1001 Wesley Drive, Broken Arrow, Tulsa County, State of Oklahoma**

Ms. Childs stated that the item before them, and the following one, allowed City staff to move forward with the 9<sup>th</sup> Street project. Typically, in order to move forward with condemnation proceedings, the Council would be requested to approve a resolution and authorize its execution. However, in going through all statutory processes in terms of obtaining appraisals, etc., and unfortunately, in the case of the item in question, they had not been successful. It was requested, therefore, that Council approve Resolution No. 977 and authorize its execution.

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

**Move to approve Resolution No. 977 and authorize its execution**

The motion carried by the following vote:

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

- K. 17-1811**      **Consideration, discussion, and possible approval and authorization to execute Resolution No. 978, a Resolution of Necessity to condemn property located at 131 North 9th Street, Broken Arrow, Tulsa County, State of Oklahoma**  
Ms. Childs informed the Council that the referenced property in the item coincided with the 9<sup>th</sup> Street widening project. The City was moving forward rapidly with condemnation, having met all statutory prerequisites. It was requested that Council approve Resolution No. 978 and authorize its execution.

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

**Move to approve Resolution No. 978 and authorize its execution**

The motion carried by the following vote:

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

#### 10. Preview Ordinances

No preview ordinances were considered. No action was required or taken.

#### 11. Ordinances

- A. 17-1774**      **Consideration, discussion, and possible adoption of Ordinance No. 3467, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1957, granting a DM zoning classification along with Specific Use Permit 276 be placed upon the tracts, generally located on the southeast corner of Cedar Avenue and Dallas Street, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency**

In the interest of time, Ms. Childs advised that all of the ordinances before the Council that night is in regard to changing the zoning maps and the Zoning Board Maps. She requested however, that each one be voted on separately, adding that all requirements had been met for the rezoning and staff was in support of moving forward.

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

**Move to adopt Ordinance No. 3467**

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 on Ordinance No. 3467**

The motion carried by the following vote:

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

- B. 17-1776**      **Consideration, discussion, and possible adoption of Ordinance No. 3468, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1959, granting a DM zoning classification be placed upon the tracts, generally located north of Commercial Street between Cedar Avenue and Birch Avenue, 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. 3468**

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. 3468**

The motion carried by the following vote:

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

- C. 17-1778**      **Consideration, discussion, and possible adoption of Ordinance No. 3469, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1962, granting a CN zoning classification along with Planned Unit Development 247A be placed upon the tracts, generally located west of Oneta Road, north of State Highway 51, 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. 3469**

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 on Ordinance No. 3469**

The motion carried by the following vote:

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



- D. 17-1780 **Consideration, discussion, and possible adoption of Ordinance No. 3470, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1955, granting a RS-1 zoning classification be placed upon the tracts, generally located one-half mile south of Florence Street, about one-quarter mile west of Aspen Avenue, 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. 3470**

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 Johnny Parks, seconded by Richard Carter.

**Move to approve the Emergency clause on Ordinance No. 3470**

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**

Councilman Lester announced that the White River Fish Market and Seafood Restaurant opened in Broken Arrow, averaging 1,200 people per day in its first week and drawing people from towns all around the region. He was glad to report that the business was doing exactly as the Council had wished.

**13. Remarks by City Manager**

Mr. Michael Spurgeon stated that he had nothing to add to his state of the city presentation he had given earlier.

At approximately 8:57 p.m., Mayor Thurmond asked for a motion to recess in order to enter into the Broken Arrow Municipal Authority and Broken Arrow Economic Development Authority meetings.

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

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

The motion carried by the following vote:

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

At approximately 9:03 p.m., Mayor Thurmond reconvened the meeting and asked for a brief recess before entering into the Executive Session.

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

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

The motion carried by the following vote:

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

The Council returned to the room at approximately 9:08 p.m.

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

**Move to enter into the Executive Session**

The motion carried by the following vote:

**Aye: 5 -** 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:**

1. Economic development and specifically discussing an economic development proposal involving real property located between East Detroit Street and East Elgin Street and North Main Street and North First Street, in Broken Arrow, Oklahoma to include the transfer of property, financing, appraisal and the creation of a proposal to entice a business to locate within the City of Broken Arrow, and taking appropriate action in open session, including direction to the City Manager and Staff to negotiate for an economic development proposal, under 25 O.S. §307(C)(10).

2. Pending litigation, settlement discussions and taking appropriate action in open session in Vicky High vs. City of Broken Arrow, Tulsa County District Court Case Number CJ-2012-3982, under 25 O.S. §307(B)(4).

3. Possible litigation and pending claims regarding Lamar Outdoor Advertising and 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 possible litigation against Nikel Investment, LLC for possible breach of a July 15, 2008 Development and License Agreement between the City of Broken Arrow and Nikel related to the removal of

Lamar Outdoor Advertising billboards from the City right-of-way, and possible action in open session, including authority to initiate an action against Nikel Investment, LLC and/or Lamar Outdoor Advertising under 25 O.S. §307(B)(4).

4. The appraisal of real property, claims and potential litigation for the real property located at 4014 West Pittsburg Circle, Broken Arrow, Oklahoma, and city infrastructure and possible action in open session, including authorization to negotiate for acquisition and resolving the claims of this real property under 25 O.S. §307(B)(3) and 25 O.S. §307(B)(4).

At approximately 9:32 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 the Executive Session was necessary to process pending claims and litigation in the public interest**

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 the City Manager to move forward with repairs necessary to secure the City's sanitary sewer line located at 4014 West Pittsburgh Circle and to work with the landowner for access and remediation**

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 authorize the City Attorney to settle the Vicky High case in accordance with Council direction**

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 the City Attorney to place an item on the next Agenda for formal action on the billboards located on City right-of-way along West Fargo Street**

The motion carried by the following vote:

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

#### 15. Adjournment

The meeting adjourned at approximately 9:34 p.m.

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

**Move to adjourn**

The motion carried by the following vote:

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

Attest:

/Craig Thurmond\_\_\_\_\_  
Mayor

/Lisa Blackford\_\_\_\_\_  
City Clerk