



City of Broken Arrow

Council Chambers
220 S 1st Street
Broken Arrow OK
74012

Minutes
City Council

Mayor Craig Thurmond
Vice Mayor Richard Carter
Council Member Mike Lester
Council Member Johnnie Parks
Council Member Scott Eudey

Tuesday, August 4, 2015

6:30 PM

Council Chambers

1. Call to Order

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

2. Invocation

Chaplain Richard Manganero delivered an invocation.

3. Roll Call

Present: 4 - Johnnie Parks, Mike Lester, Richard Carter, and Craig Thurmond
Absent: 1 - Scott Eudey

4. Pledge of Allegiance to the Flag

Mayor Thurmond led the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

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

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

Move to approve the Consent Agenda as presented

The motion carried by the following vote:

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

- A. 15-216 Approval of Special Council meeting minutes of July 13, 2015
- B. 15-218 Approval of Special Council meeting minutes of July 17, 2015
- C. 15-219 Approval of Council meeting minutes of July 21, 2015
- D. 15-231 Acceptance of minutes of Planning Commission meeting held, June 25, 2015
- E. 15-253 Approval of and authorization to execute an Interlocal Agreement between the Broken Arrow School District and the City of Broken Arrow for the provision of school crossing guards
- F. 15-217 Approval of and authorization to execute an Interlocal Agreement between the Union School District and the City of Broken Arrow for the provision of school crossing guards
- G. 15-212 Approval of and authorization to execute Amendment No. 5 to the Blackboard Connect-CTY Services Agreement for emergency/community notification systems services
- H. 15-245 Approval of and authorization to execute a Youth Counseling Agreement between the City of Broken Arrow and Youth Services of Tulsa, Inc.
- I. 15-262 Approval of and authorization to execute the City of Broken Arrow annual services contract with Broken Arrow Seniors, Inc.
- J. 15-209 Approval of and authorization to execute the Renewal of the City of Broken Arrow Golf Course Management Contract with Greenway Golf Associates, Inc
- K. 15-215 Approval of and authorization to purchase twelve (12) Ford SUV Interceptors for the Police Department from Bob Hurley Ford pursuant to the State Contract
- L. 15-213 Approval of and authorization to purchase Police Duty and Practice Ammunition from Precision Delta Corporation pursuant to the State Contract

- M. 15-224 Approval of and authorization to purchase from Ford Audio-Video a video and broadcast lighting/dimming system for the City Council Chambers pursuant to the State Contract and authorization to execute a System Installation Agreement
- N. 15-211 Approval of and authorization to purchase annual software maintenance services from SunGard Public Sector, Inc
- O. 15-226 Approval of and authorization to execute an Encroachment Agreement and Release of Liability from Ricky and Krystal Hanks for a portion of a roofed terrace into a utility easement located on Lot 17, Block 1, Southern Trails Estates, approximately one-third mile west of Olive Avenue and south of New Orleans Street on (S29 T18N R14E)
- P. 15-227 Acceptance of a Utility Easement on Lot D of Tract B of The Village at Stone Wood Hills, located south of Albany Street and east of Elm Place, Broken Arrow, Tulsa County, State of Oklahoma (Section 02, T18N, R14E) for the purpose of extending sanitary sewer
- Q. 15-228 Acceptance of a Utility Easement on Lot D of Tract B of The Village at Stone Wood Hills, located south of Albany Street and east of Elm Place, Broken Arrow, Tulsa County, State of Oklahoma (Section 02, T18N, R14E) for the purpose of stormwater management
- R. 15-229 Acceptance of a Temporary Overland Drainage Easement on Lot C of Tract B of The Village at Stone Wood Hills, located south of Albany Street and east of Elm Place, Broken Arrow, Tulsa County, State of Oklahoma (Section 02, T18N, R14E)
- S. 15-223 Approval of final acceptance for the public improvements for Hartford Villas (sanitary sewer, water and paving)
- T. 15-237 Approval of final acceptance for the water and sanitary sewer public improvements for The Shops at Aspen Creek
- U. 15-268 Approval of final acceptance for the storm sewer public improvements for The Shops at Aspen Creek
- V. 15-234 Approval of final acceptance for the public improvements for Warren Clinic (traffic signals)
- W. 15-235 Approval of final acceptance for the public improvements for Warren Clinic (water and paving)
- X. 15-269 Approval of the August 4, 2015 Claims List

6. Consideration of Items Removed from Consent Agenda

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

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

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

8. Citizens' Opportunity to Address the Council on General Topics

Mr. Richard Pisaturo, Broken Arrow Citizen, gave the Council an update on code enforcement for the parking of illegal commercial vehicles parking on residential streets. He said that his neighborhood would be receiving news letters to help educate the residents on the new regulations as ignorance of the codes appeared to be one of the main reasons for continuing issues. He told the Council that he was thankful and impressed with the support he had received from the City's staff. Mr. Pisaturo asked if it would be possible for the City to sponsor a class for leaders of the City's Home Owners Associations. Councilor Richard Carter thanked Mr. Pisaturo for his support. No Action was required or taken.

9. General Council Business

- A. 15-244 **Consideration, discussion, possible approval of and authorization to execute an Employment Agreement between the City of Broken Arrow, Oklahoma and Michael L. Spurgeon**

City Attorney, Ms. Beth Anne Wilkening, told the Council she has had a number of conversations with the new City Manager, Mr. Michael L. Spurgeon, and he is very excited about assuming his position. She said he currently serves as Director of Administration for the City of St. Charles, Missouri. She said he had spent a considerable amount of time as City Administrator/Manager for Miami, Oklahoma. Ms. Wilkening said that the attached employment agreement was consistent with those

utilized by other municipalities. She said it provides for his appointment as City Manager for a period of three years at an annual salary of \$166,000.00. The Agreement provides for transportation and technology allowances, a bank of two weeks sick and vacation leave, payment of relocation expenses, a relocation preparation trip, a transitional living allowance, and retirement contributions of 12%. It also contains a nine (9) month severance package for two years. The severance package is reduced to seven (7) months in the third year. The Agreement provides for a start date of September 21, 2015, a preliminary review after six (6) months and annual reviews thereafter. Ms. Wilkening gave further details related to the employment contract with Mr. Spurgeon. She said that it was staff's recommendation that Council approve the Employment Agreement and authorize its execution.

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

Move to approve the Employment Agreement with Michael L. Spurgeon and authorize its execution

The motion carried by the following vote:

Aye: 4 -
Absent: 1 -

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

B. 15-273 Consideration, discussion, possible approval of and authorization to execute the Fiscal Year 2015-16 Labor Agreement with the International Association of Firefighters Local No. 2551

Acting Director of Human Resources, Ms. Jannette McCormick, told the Council that the City's negotiation team and the International Association of Fire Fighters Local No 2551 began negotiations in March of 2015 for the Fiscal Year 2015-16 Labor Agreement. She said that an agreement was reached on July 16, 2015 and ratified by the local membership. Ms. McCormick said that there were several administrative changes and she presented the following items with economic impact:

1. A 3% base wage increase for all bargaining unit members
2. A 15% increase in the health insurance contribution for bargaining unit members

She said that staff recommended approval of the agreement and authorization of its execution.

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

Move to approve the Labor Agreement with the International Association of Firefighters Local No. 2551 for Fiscal Year 2015-16 and authorize its execution

The motion carried by the following vote:

Aye: 4 -
Absent: 1 -

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

C. 15-276 Consideration, discussion, possible approval of and direction to publish an Amended Legal Notice of Annexation for the voluntary annexation of approximately 14 acres of land located in the West Half of the Northwest Quarter of the Northwest Quarter (W/2 NW/4 NW/4) of Section Nine (9), Township Seventeen (17) North, Range Fourteen (14) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, and generally located on the Southeast corner of 131st Street and 129th East Avenue (Olive) and being adjacent to and abutting 131st Street and 129th Street East Avenue (Olive)

Ms. Wilkening told the Council that this item was considered at the last meeting and due to some difficulty with the legally required publication date the staff recommended a direction from Council to publish the Amended Notice.

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

Move to Direct the City Clerk to public the Amended Legal Notice of Annexation in a legally qualified newspaper 14 days prior to the public hearing

The motion carried by the following vote:

Aye: 4 -
Absent: 1 -

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

D. 15-263 Consideration, discussion, possible approval of and authorization to execute Resolution No. 887, a Resolution authorizing the City Attorney to agree to Entry of Judgment without admitting liability in the matter of First Priority Bank v. City of Broken Arrow, Wagoner County District Court, Case No. CJ-2015-0180; and directing the City Attorney to prepare and file the necessary documents to effectuate settlement, including a Journal Entry incorporating the Resolution of the Court's approval, pursuant to 51 O.S. § 158

Ms. Wilkening explained that this item had initially been a tort claim that was denied by

the Tort Claim Committee. She explained the peculiarities of the case that related to the demolition of an abandoned house located at 2400 East 71st Street South, Broken Arrow, Oklahoma. She said that a reasonable compromise determined a value of settlement in the amount of \$30,000.00, plus the release of the Notice of Dilapidation and Lien. Ms. Wilkening told the Council that staff had been engaged in the issues related to the case and efforts were underway with Wagoner County to address the circumstances that lead to the case. She added that safeguards that had been implemented would hopefully eliminate future complications.

MOTION: A motion was made by Richard Carter, seconded by Mike Lester.
Move to approve Resolution No. 887 and authorize its execution
The motion carried by the following vote:

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

10. Preview Ordinances

- A. 15-248 **Consideration, discussion and possible preview of an ordinance amending the Broken Arrow Code of Ordinances by amending Chapter 24, Water, Sewers and Sewage Disposal, Article VII Sewer services charges and rates; Section 24-704, Rates for sanitary sewer service established, deleting the reference to cost per 1,000 gallons, repealing all ordinances to the contrary; and declaring an emergency**

Ms. Wilkening said that Section 24-704 had been inadvertently omitted from the process to remove fees found within Ordinances and the establishment of those fees within the Manual of Fees. The fees referenced within the Amendment relate to rates for sanitary sewer service.

MOTION: A motion was made by Mike Lester, seconded by Richard Carter.
Move to preview the Ordinance and set for adoption

The motion carried by the following vote:

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

- B. 15-130 **Consideration, discussion and possible preview of an ordinance closing a utility easement on property located on the westerly portion of Lot 1, Block 4, Berwick on Cedar Ridge, Blocks 2, 3, 4, 5, and 6, a subdivision in the City of Broken Arrow, Tulsa County, Oklahoma, generally located east of Mingo Road and one-quarter mile north of Florence Street; repealing all ordinances to the contrary; and declaring an emergency**

Ms. Wilkening said the applicant had submitted a request for the vacation of a utility easement. She said the applicant had installed a pool which unintentionally encroached into the utility easement. Ms. Wilkening said all utility companies had signed off on the request.

MOTION: A motion was made by Johnnie Parks, seconded by Mike Lester.
Move to preview the Ordinance and set it for adoption

The motion carried by the following vote:

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

11. Ordinances

- A. 15-232 **Consideration, discussion and possible adoption of Ordinance No. 3356, an Ordinance amending the Employee Retirement System, Defined Contribution Plan for the position of City Manager for the City of Broken Arrow, Oklahoma by adopting a revised and restated retirement plan; providing retirement benefits for eligible employees of the City of Broken Arrow, Oklahoma; providing for purpose and organization; providing for definitions; providing for eligibility and participating; providing for non-alienation of benefits; loss of benefits for cause and limitations of benefits; providing for required notice; providing for amendment and termination; providing for transfer to and from other plans; creating a retirement committee and providing for powers, duties, and rights of retirement committee; providing for payment of certain obligations; providing for duration and payment of expenses; providing to finance the system to be pooled with other incorporated cities towns and their agencies and instrumentalities for purposes of administration, management, and investments part of the Oklahoma Municipal Retirement Fund; providing for payment of all contributions under the system to the Oklahoma Municipal Retirement Fund for management and investment; providing for repealer and severability; adopting those amendments mandated by the Internal Revenue Code**

Ms. Wilkening told the Council that she would briefly address both 11A and 11B but she requested that they take votes on them separately. She said Ordinance 3356 pertains to the Defined Contribution Plan established for the position of City Manager. She said that this is new because prior City Managers had to avail themselves of the retirement plan through International City/County Management Association. Ms. Wilkening said the change responded to requirement from the Internal Revenue Service. She gave details of the new requirements. Ms. Wilkening said Ordinance 3357 pertains to the Employee Retirement System. She said that it was recommended by staff that Council adopt both Ordinances.

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

Move to adopt Ordinance 3356

The motion carried by the following vote:

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

- B. 15-236 Consideration, discussion and possible adoption of Ordinance No. 3357, an Ordinance amending the Employee Retirement System, Defined Contribution Plan for the City of Broken Arrow, Oklahoma by adopting a revised and restated retirement plan; providing retirement benefits for eligible employees of the City of Broken Arrow, Oklahoma; providing for purpose and organization; providing for definitions; providing for eligibility and participation; providing for non-alienation of benefits; loss of benefits for cause and limitations of benefits; providing for employer and employee contributions; providing for accounting, allocation, and valuation; providing benefits; providing for required notice; providing for amendments and termination; providing for transfer to and from other plans; creating a retirement committee and providing for powers, duties and rights of retirement committee; providing for payment of certain obligations; providing for duration and payment of expenses; providing for effective date; providing for vesting schedules; providing for a fund to finance the system to be pooled with other incorporated cities, towns, and their agencies and instrumentalities for purposes of administration, management, and investment as part of the Oklahoma Municipal Retirement fund; providing for payment of all contributions under the system to the Oklahoma Municipal Retirement Fund for management and investment; providing for repealer and severability; adopting those amendments mandated by the Internal Revenue Code**

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

Move to adopt Ordinance 3357

The motion carried by the following vote:

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

12. Remarks and Inquiries by Governing Body Members

There were no remarks and inquiries by Governing Body Members.

13. Remarks by Acting City Manager

There were no remarks by Acting City Manager.

14. Executive Session

Executive Session for the purpose of confidential communications between the City Council, the Acting City Manager, and the City Attorney, and possible action in open session regarding a pending litigation offer of settlement and taking appropriate action in open session in Green Acre Sod Farm v. City of Broken Arrow, a pending tort claim, under 25 O.S. §307(B)(4). In the opinion of the City Attorney, the Council is advised that disclosure will seriously impair the ability of the public body to process the pending litigation in the public interest. After the conclusion of the confidential portion of executive session, the Council will reconvene in open meeting, and the final decision, if any, will be put to a vote.

Mayor Thurmond said that it had been requested that the Executive Session be tabled until the next Council meeting. Mayor Thurmond ask for a motion.

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

Move to table until the next Council meeting

The motion carried by the following vote:

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

15. Adjournment

The meeting adjourned at approximately 6:49 p.m.

**MOTION: A motion was made by Mike Lester, seconded by Johnnie Parks
Move to adjourn**

The motion carried by the following vote:

Aye: 4 -

Absent: 1 -

Johnnie Parks, Mike Lester, Richard Carter, and Craig Thurmond

Scott Eudey

Attest:

Mayor

City Clerk