



# City of Broken Arrow

City Hall  
220 S 1st Street  
Broken Arrow OK  
74012

## Minutes City Council

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

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Tuesday, February 2, 2016	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

No one was on hand to deliver the invocation.

### 3. Roll Call

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

### 4. Pledge of Allegiance to the Flag

Councilor Eudey led the Pledge of Allegiance to the Flag.

### 5. Consideration of Consent Agenda

Mayor Thurmond announced that he would like to pull items 5A, 5M and 5O from the Consent Agenda.

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

**Move to approve the Consent Agenda with the exception of items A, M, and O**

The motion carried by the following vote:

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

#### A. 16-107

**Approval of City Council Minutes for meeting of January 19, 2016**

#### B. 16-111

**Approval and authorization to pay the City's share of the Non-Participating Costs of the Midway Road and East 101st Street Project (Project No. STPY-173D(177)UR, State Job No. 28905(04))**

#### C. 16-108

**Approval and authorization to execute Earth Change Pay Request Number 6 for Tri-Star Construction, LLC through the Vision 2025 Sales Tax Program in association with the Stoney Creek Hotel and Conference Center**

#### D. 16-105

**Approval and authorization to execute Pay Request Number 7 for Professional Design Services through the Vision 2025 Sales Tax Program in association with the Stoney Creek Hotel and Conference Center**

#### E. 16-091

**Ratification of an Amendment to the Regional Metropolitan Utility Authority (RMUA) Operation Agreement regarding the Haikey Creek Wastewater Treatment Plant extending the time period from 42 to 43 years**

#### F. 16-094

**Approval and authorization to execute Amendment No. 1 to the Agreement for Professional Consultant Services with RL Shears Company, P.C., for Detailed Design of Downtown Main Street Streetscape Phase IV**

#### G. 16-093

**Approval and authorization to execute Amendment No. 1 to Agreement for Professional Consultant Services with RL Shears Company, P.C., for the Rose District Farmers Market Water Feature**

#### H. 16-106

**Approval and authorization to execute a Letter Agreement with Hillcrest Medical Center, under the Hillcrest Exercise and Lifestyle Programs, for the Broken Arrow Fire Department uniformed employee's biennial physical examinations**

#### I. 16-083

**Approval and authorization to purchase 40 Dell Latitude 14 Rugged 5404 Laptop Computers for the Police Department (mobile data system) pursuant to the Western States Contracting Alliance as bid by the Central Purchasing Division of the Department of Central Services for the State of Oklahoma (the State Contract)**

#### J. 16-084

**Approval of and authorization to purchase 10 Dell Latitude 14 Rugged 5404 Laptop Computers for the Police Department (mobile data system) pursuant to the Western**

States Contracting Alliance as bid by the Central Purchasing Division of the Department of Central Services for the State of Oklahoma (the State Contract)

- K. 16-085 Approval and authorization to accept the public improvements for Stone Horse subdivision located at North East corner of 131st Street South and 129th East Avenue
- L. 16-090 Approval and authorization to accept the public improvement for The Shops at Aspen Creek located at Tucson and Elm
- M. 16-102 Approval of PT15-111, Conditional Final Plat, Oak Estates, 15 lots, 13.04 acres, A-1 to PUD 239.RS-2, one-quarter mile south of the southeast corner of Jasper Street and Garnett Road
- N. 16-101 Approval of PT15-116, Conditional Final Plat, Collision Works, a Replat of Steele Morrel Center, 2 lots, 2.64 acres, CH to PUD 243/CH and IL, southeast corner of Kenosha Street and 14th Street , south of Kenosha Street, one-third mile east of 9th Street
- O. 16-099 Approval of PUD 246 (Planned Unit Development) and BAZ 1951 (Re-zoning request), Walnut Grove, 7.83 acres, A-1 to RE/PUD 246, one-quarter mile south and one-quarter mile east of the southeast corner of Jasper Street and Garnett Road
- P. 16-100 Approval of PUD 247 (Planned Unit Development), Kum and Go 837, 1.72 acres, CN, west of Oneta Road, north of State Highway 51
- Q. 16-098 Approval of PUD 248 (Planned Unit Development), 51 Aspen Mini Storage, 5.82 acres, A-1 to PUD 248/IH, one-third mile west of Evans Road, south of State Highway 51
- R. 16-126 Approval of the Broken Arrow City Council Claims List for February 02, 2016

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

Mayor Thurmond left the room at 6:31 p.m.

- A. 16-107 Approval of City Council Minutes for meeting of January 19, 2016
- M. 16-102 Approval of PT15-111, Conditional Final Plat, Oak Estates, 15 lots, 13.04 acres, A-1 to PUD 239.RS-2, one-quarter mile south of the southeast corner of Jasper Street and Garnett Road
- O. 16-099 Approval of PUD 246 (Planned Unit Development) and BAZ 1951 (Re-zoning request), Walnut Grove, 7.83 acres, A-1 to RE/PUD 246, one-quarter mile south and one-quarter mile east of the southeast corner of Jasper Street and Garnett Road

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

**Move to approve items A, M, and O from the Consent Agenda**

The motion carried by the following vote:

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

Mayor Thurmond returned to the room at 6:32 p.m.

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

- A. 16-113 **Recognition of Paul Gerner as Reserve Officer of the Year**

Mayor Thurmond stated that Mr. Paul Gerner would be recognized as Reserve Officer of the Year. Police Chief, David Boggs, said he wished to make sure that recognition of Officer Gerner be made public, and went on to say that the Department was very proud of its Reserve program. He read from the citation on his award, informing that Mr. Gerner donated over 460 hours of his time in 2015, and pointed out that it was a tremendous number of volunteer hours. On behalf of the Broken Arrow Police Department, he thanked Officer Gerner, who received a standing ovation from the Council, Staff, and public in attendance, as well as a handshake from the Mayor.
- B. 16-104 **Presentation and discussion of the Annual Report**

City Manager, Mr. Michael Spurgeon, delivered the Annual Report for 2015. He presented a fact sheet, pointing out that the annual report has constituted a summary of City activities for a fiscal year and that the documentation of yearly activities has, effectively, provided a way of tracking progress and ensuring accountability for initiatives passed by the public. In addition to underlining successes, it has provided information on the City's financial status. Highlights from 2015 included a renewal of the Vision 2025 sales tax for City purposes, hiring of a new City Manager by the City

Council, and the continued growth and recognition of the Rose District, accomplishments listed in the Annual Report under Fiscal Sustainability, Economic Growth, City Organization, Quality of Life and Infrastructure. Mr. Spurgeon asked the Director of Communications, Ms. Krista Flasch, to come forward to give the slide presentation and he passed out copies of the Annual Report to the Council members. He indicated that community support for the three propositions funded by their taxes had been high, helping move the community forward with respect to the Police and Fire Departments, and street maintenance. The Rose District, recognized as a great street, saw private investments of close to \$25 million, parlayed with \$5 million in downtown public investments. The City planned to invest several million dollars more to finish the infrastructure. A number of new jobs were created, as a result of the partnership, and opportunities to shop locally were also enhanced, with sales tax revenues supporting City services. Mr. Spurgeon went on to say that he considered himself blessed to have been appointed City Manager of Broken Arrow in September. Mr. Spurgeon invited Ms. Flasch to speak on availability of the Annual Report. Ms. Flasch reported that complimentary copies of the Report would be available at City Hall and that she would be passing out copies at the end of the meeting to any interested, as well. In addition, it would be advertised in the FOCUS Newsletter, also available at City Hall. She gave the URL or web address where it could be read online as [www.brokenarrowok.gov/2015annualreport](http://www.brokenarrowok.gov/2015annualreport). She specified that the Report included a helpful Service Directory at the back and encouraged people to read the Report and make use of the shortcuts, furnished by the Directory, as a means of contacting City employees.

Ms. Krista was complimented by the Council on the Annual Report.

**8. Citizens' Opportunity to Address the Council on General Topics Related to City Business or Services (No action may be taken on matters under this item)**

No citizens signed up to speak.

**9. General Council Business**

**A. 16-136**

**Consideration, discussion, possible approval and authorization to execute a Capital Improvements Agreement by and between the Board of County Commissioners of Tulsa County, Oklahoma, and the City of Broken Arrow related to the Creative Arts Center in the Rose District Project**

Mr. Russell Gale, Acting Assistant City Manager, recalled that in October 2015 an application for \$650,000 of Vision surplus was approved by the Vision Authority for the Creative Arts Center. An agreement to fund the project had been approved by the Tulsa County Board of Commissioners on December 28, 2015, providing only \$100,000 initially, however. At the previous meeting of January 19<sup>th</sup>, the Council had requested that the contract be placed on the February 2<sup>nd</sup> meeting agenda, for their consideration.

MOTION: A motion was made by Johnnie Parks, seconded by Scott Eudey  
The motion carried by the following vote:

**Move to approve the Capital Improvements Agreement by and between the Board of County Commissioners of Tulsa County, Oklahoma, and the City of Broken Arrow related to the Creative Arts Center in the Rose District Project**

Aye: 5 -

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

**B. 16-075**

**Consideration and possible approval of BAZ 1941 (rezoning request), The Crossings at 71st (Park Place), 80.00 acres, rezoning A-1 to RS-3, east of Midway Road, one-quarter mile north of Kenosha Street**

Councilor Parks brought to the Council's attention a possible conflict, though not as far as he was concerned, in his sister living a few blocks away, in a neighboring subdivision, from the location under consideration. For the sake of transparency, Councilor Parks recused himself from the discussion and vote regarding this Item.

Mr. Farhad Daroga, City Planner, explained that the property was zoned as A-1, for agricultural use and was undeveloped. The request was that it be rezoned to RS-3, for single-family residential development. The Council first reviewed the request in September 2015, and it was subsequently tabled. The application was for RS-3, and the Comprehensive Plan showed Level 2, designated as single-family residential zoning. The property to the south was developed as an R-2 single-family residential neighborhood. To the west, lay property that was developed, in part, outside the City limits, while properties to the north and east were undeveloped. The Planning Commission had met in summer 2015 and recommended approval of the RS-3 zoning. Mr. Daroga stated that the applicants were present to put forward their proposal. He added that Development Services Director, Mr. Michael Skates had met with the applicants and surrounding property owners, and both he and Mr. Skates were happy to answer any questions.

Mr. Andrew Shank, Esq. of Eller & Detrich, Tulsa, stepped forward to speak on behalf of the applicant. He stated that he had submitted a packet to Development Services

Director, Mr. Michael Skates, and he passed the packet around to the Council. He recalled, summarizing the case, that it had started with an application that was filed with City Staff. The Staff analyzed the application and made a recommendation for approval of the requested rezoning, being that it was consistent with the Comprehensive Plan. He said that the physical facts of the case supported approval, since the property abutted a single-family residential district to the south. The Planning Commission then heard the case and had some questions with regard to traffic, storm water, etc. Mr. Shank remarked that he believed those questions came under the heading of engineering details that would be addressed in the platting process, and as such, were not part of a routine zoning application. The applicant, at any rate, commissioned a traffic study, had a hydrologist prepare documentation, and met with the Director of Development Services, in order to facilitate the process. He pointed out that the packet contained summaries of the reports and speakers were on hand to address the issues. He concluded by reiterating that the physical facts of the case clearly supported approval of the rezoning. He observed that the actual development, as seen from the preliminary plat submitted, would be less dense than the existing single-family development to the south; there would be fewer lots per acre and more green space. Traffic and storm water issues should be addressed by the experts later. Stating, in short, that because the application was in compliance with the Comprehensive Plan, and was consistent with the purpose of the residential zoning district designation, he respectfully requested that it be approved by the Council. He asked Mr. Randy Tolbert of Peters and Associates Engineers, Little Rock, Arkansas, to address the Council on the traffic study.

Mr. Tolbert, Senior Project Engineer, said that he had over 17 years of traffic engineering experience with Peters and Associates. He stated that the company had been in business since 1982 and that its principal engineer, Mr. Ernie Peters, was registered in the state of Oklahoma. Both he and Mr. Peters conducted the traffic study in which existing traffic volume counts in the vicinity of the site were monitored. Then projected site-generated traffic volumes were calculated, based on reliable standard practice, to estimate full build-out site-generated volumes associated with the site. Projected volumes in the latter study were then added to the existing traffic volumes for the a.m. and p.m. peak hours, taking into account two site-access drives. It was found each vehicle moving up the study site intersections proceeded at level-of-service (LOS) B or better, during a.m. and p.m. peak hours. In other words, speeds were maintained and maneuverability within the traffic stream was only slightly restricted, at times. Additionally, a right-turn deceleration lane analysis was conducted at the site, and it was found that neither the north nor the south streets met the criteria Department of Transportation (DOT) guidelines for a deceleration lane. Peters and Associates looked at all applicable standards and criteria, as per "The City of Broken Arrow Engineering Design Criteria Manual, Section 7," and found that all conditions and guidelines were met, meaning that there was no need for improvements at the two intersections. Mr. Tolbert told the Council that, as he understood, however, the developer was willing to build a deceleration lane at each of the two access drives. He added it was his understanding that the City planned to place a traffic signal south of the site. If the City were to follow on that traffic conditions could be expected to even improve slightly at, and in the vicinity of, the site.

Councilor Eudey asked whether the study had examined the traffic at the major intersections of Kenosha Street and Midway Street, and at 61<sup>st</sup> Street and Midway Street. Mr. Tolbert replied that they had specifically analyzed the two site drives associated with the development and did not conduct any analysis south of the site. Only traffic volumes were inspected on the two major intersections.

Mr. Shank summarized the study's findings, with respect to Broken Arrow's traffic design standards, stating that deceleration lanes were not required, and reiterating the applicant's offer to fund two deceleration lanes, nevertheless. He noted that the analysis was extremely conservative in that, as he understood, it was based on the preliminary site plan filed, with over 300 potential lots. The proposed preliminary plat, submitted to Development Services, showed only 231 lots. He concluded that, obviously, the traffic impact from fewer lots would be lesser. He added that the traffic analysis supposed 231 lots that would be developed instantaneously, when, in reality, it would take years for a project of such size to come to be completed, and it would be done in phases. Any potential adverse impact could be mitigated by the proposed deceleration lanes and by the signalized intersection the City acknowledged it would put in, in 2016.

Mr. Spurgeon commented that in his previous experience, with respect to the deceleration lanes being offered, the offer was usually memorialized in the approval agreement or platting.

Mr. Shank observed that the City of Broken Arrow was unique in its zoning ordinances and should that Council vote to approve the application that night, the approval would be upon condition of submittal and approval of a final plat. The proposal would be back before the preliminary plat, and back again before the final plat, and if it were to deviate in any way that would displease the Council, they should not approve it.

Mr. Kyle Sewell, Project Manager of Crafton Tull, 220 East 8<sup>th</sup> Street, Tulsa, spoke on the preliminary drainage studies the company had conducted, in advance of the preliminary design phase with platting because of the concern for zoning. Giving background on Crafton Tull, he told the Council that they had been in business for over 50 years and had done a lot of drainage work in Oklahoma, Arkansas, and surrounding states, including projects in Broken Arrow itself. He stated that the development, as it was currently drawn, would comply with industry standards for storm water design requirements for the City, with respect to the Oklahoma Department of Environmental Quality and the EPA. He explained that their drainage study, prior to development, involved an evaluation of existing discharges from the site, with a view of maintaining and not exceeding Broken Arrow's regulations for the flow rate coming off. Peak flows were calculated. Then the study took into account the post development flows with the addition of detention ponds, and the results were that 8% less peak discharge would be produced under the hundred-year: the most extreme case evaluation required of them. So there would be a net result in the peak flows and the velocities of the water coming off of the site would be reduced also. Those beneficial conditions at the site would not impinge upon with the downstream flow into the receiving streams. Mr. Sewell added that existing Ridgeway Heights development did not have detention ponds in place and there was some drainage onto the site under consideration. Consequently, the new development site would be detaining some of that, thus helping, in some small way, the problem of the neighboring development.

Councilor Lester asked if his calculations were based on the full development of the project. Mr. Sewell replied yes, and indicated that the construction of the ponds would be phased in, in order to make sure that at each stage, they would maintain and remain below the pre-developed discharge conditions, slowing down water velocity and reducing the total peak flow.

Mr. Shank drew their attention to the last tab in the packet he had provided, recalling that at the last hearing a comment had been made about sanitary sewer capacity. He referred to a letter from Mr. Skates, indicating that there was sanitary sewer availability and existing capacity to address the proposed size of the development. He said he would reserve the remainder of his comments until after the public had a chance to speak.

In response to a question by Councilor Eudey regarding the traffic study, Mr. Tolbert clarified that they took into account the number of lanes, as well as the lane width, and the average number of driveways within a mile of the site. Safety was a consideration.

Councilor Lester asked Mr. Skates if the sanitary sewer were on a lift station, and Mr. Skates replied in the affirmative, elaborating that it would connect to a gravity line that would go to the Adams Creek lift station. He affirmed also that the present lift station had the necessary capacity and that the development would have its own transferring lift station. Mr. Shank pointed out that what was before the Council was not a final plat application, nor a building permit application, but simply a re-zoning request. Technical questions would be addressed again in detail at the preliminary plat, the final plat and on each occasion that the building permit was pulled.

Mayor Thurmond said that several people had signed up to speak and that, in addition, he was in receipt of 70 forms expressing opposition to rezoning.

Mr. Don Jenkins, 6626 South 257<sup>th</sup> East Avenue, spoke. He remarked that it was his understanding that the pumping station was not big enough to handle a larger capacity. He expressed concern about drainage in the area, saying that that following the recent heavy rains the road near the bridge, just across from 67<sup>th</sup> Street, was under a foot to a foot and a half of water. He observed that the property in question was much higher in elevation than the surrounding property, and heavy rains would result in mudslides that would extend to the streets and ditches, during the course of the property's development. Another major concern was that the type of houses planned would not be in keeping with what has been built in the surroundings of Forest Ridge in the past several years.

Ms. Bonnie Glidewell, 6804 South 254<sup>th</sup> East Avenue, said the Council had heard of the flooding problem in the area of the site under consideration and she remarked that the problems were ongoing. Ms. Glidewell appealed to the hearts and minds of the Council members to formulate a decision, in the difficult matter before them, that would be to the benefit of all the parties involved. She expressed confidence in their ability to decide while keeping in mind the concerns of citizens present and their neighbors, and the interests of the developer and the people who would potentially dwell in the new development. She praised the Council's excellent stewardship, adding that their decision should be one that made them proud and one that instilled pride in people with regard to Broken Arrow.

Ms. Mary Ann Colston, 513 North 79<sup>th</sup> Street, spoke next, passing out copies of her presentation. She expressed appreciation of the Council's forward thinking in the job they had of making tough decisions on a biweekly basis. Ms. Colston stated that she had new information to give, describing a rain event in the area where she lived, located about a quarter mile from Covington Creek. She showed slides of photos she took of the Covington Creek storage basin, on the morning of the event, in which approximately 4

inches of rain fell over a period of about 12 hours. She then showed a slide of the Covington Creek flood storage area on the following day, looking west from Church Road. The photo indicated two sanitary sewer elevated manholes that were submerged. She expressed concern as to the particular amount of rain over so many hours producing such consequences and said she had been told that there could be leakage from manholes. She presented a map of Adams Creek, displaying the site of the proposed project for crossings at 71<sup>st</sup> Street, as well as the site of another project Rausch Coleman project, with crossings at 91<sup>st</sup> Street, both flowing into Covington Creek. She said that Forest Ridge had multiple detention facilities – four of them -- between the crossings and further on down into the Covington storage basin. Ms. Colston next showed a picture, illustrating her concern that roads in the vicinity were flooding on a more frequent basis and potentially blocking Fire/Rescue access. Displaying a photo of road flooding at 61<sup>st</sup> Street and Midway Street on the morning of the recent rain event, she commented that most of the roads were collecting water and that the situation became worse with more than 6 inches of rainfall.

Vice Mayor Carter commented that he lived in the area, as well, and had witnessed what Ms. Colston was referring to, and thought it pretty scary, especially when the manholes were submerged. He also stated that it was not an uncommon occurrence. Ms. Colston agreed and went on to say that she was worried because sewage was, by its very nature, unhealthy, and stranded motorists sometimes had to wade through it. Vice Mayor Carter noted that the area was developed outside the City limits and pointed out that the City had had to do significant work to make it acceptable and prevent flooding in Covington and surrounding areas, including widening the basin. Expansion of the basin had helped but still had not prevented water from collecting very close to homes.

Mr. Trey Hart, of 6430 South 257<sup>th</sup> East Avenue, located just to the north and on the west side of the proposed development, spoke. He inquired of Mr. Skates whether a traffic analysis had been done that was presented at the previous meeting. Mr. Hart said he thought so and that it had been rated as F and went on to ask what the difference was between the City's traffic analysis and Tolbert's analysis. He added that he distinctly recalled that the intersection had received a D rating and the road an F rating. He was confused, having consulted the archived video of that particular meeting in which it was discussed. He wondered the City came up with a traffic analysis that scored it an F, while the developer's people came up with a B+? He thanked the Council and requested they keep his concerns in mind since their decision would affect a lot of the people living in the area, for quite some time into the future. Mr. Hart concluded by saying that the infrastructure for the project was not quite there yet, adding that he wished it was because he supported construction of new developments in Broken Arrow.

Councilor Eudey commented that, according to his recollection, the study presented previously dealt specifically with the intersection of Kenosha and Midway Streets, and that it did not include the rest of Midway Road, and that the intersection was rated, at various times, a D and an F. Several people voiced their opinions that Councilor Eudey was correct. Mr. Skates said that actually two different things had taken place, with respect to the traffic studies. The City had done a study years ago focusing on the intersections. The focus of the traffic study that Tolbert had performed recently was strictly on the neighborhood and the impact on the two proposed entrances/exits to and from the neighborhood. Tolbert looked at the intersection based on what the City had previously done. Mr. Skates noted that, however, as the attorney, Mr. Shank had mentioned, the City had already agreed to install a fully-actuated traffic signal in the following fiscal year, which would remedy what the City had previously identified – primarily the south leg of Midway Street at Kenosha Street – as a level F.

Mr. Robert Penick, 5741 South 257<sup>th</sup> East Avenue, recently retired from the Tulsa Fire Department, stated that he wanted to talk about life safety concerns with regard to the area. He explained that the information he had to share came by way of the National Fire Protection Association (NFPA) guidelines, the United States Search and Rescue Task Force, and from the Federal Emergency Management Agency (FEMA). He said he was concerned about traffic, with the proposed additional 231 houses, and about water run-off, also. He commented that there was more and more urban flooding in connection with the development of Forest Ridge and its detention ponds, through Covington Estates. Mr. Penick cited instances, over the past several years, of people that had to be rescued from their cars, including a police woman on her car roof because she drove into water along 71<sup>st</sup> Street at School Creek, right in front of Station Four. He went on to say that Midway Road had flooded multiple times in the past two months, and the City placed a road barricade there, seeing fit to just leave it there because of the frequency of problem. The narrowness of the road with more traffic on it, without ditches to divert the water, would create a bigger problem, bearing in mind the complete loss of traction in about a foot of water. He cautioned that same thing that happened on 61<sup>st</sup> Street between County Line Road and 209<sup>th</sup> East Avenue, where in May a big flood episode washed the bridge out for several months, could happen. With additional concrete from houses and additional streets and driveways, and with less grass, up to six times as much water could flow and the water from retention ponds would still have to go someplace. He indicated that the danger of drowning in floodwaters was very real. In

response to a question by Councilor Lester, Mr. Penick maintained that detention ponds at the proposed development would only serve to initially slow down the water, and not prevent it from overflowing and washing out roads.

Mr. Jim Oden, 5309 South 257<sup>th</sup> East Avenue, commented on Mr. Shank's assertion that the proposal was consistent with the Comprehensive Plan, stating that necessary infrastructure should precede development. He said he had witnessed a number of cars that had been washed away in a ditch, in the five years he had lived in the area. The roads had no shoulder where one could pull over and flooding presented a danger to motorists. He cited the Council's obligation to protect citizens already in the area. He was not against growth, but reasoned that the plan should be delayed until proper infrastructure was put in place.

Mr. Jimmy Beard, 5601 South Midway Road, expressed disappointment that they were there in the fourth meeting on the subject, owing to the variety of obvious problems the planned development would present to people living in the area. He stated that he and his neighbors saw problems every day and had experienced cars, or, more recently, dump trucks, on their side or upside down, in their front yards, in the ditch. He described how his four-wheel drive pick-up truck was not able to get through all the water that came off Ridgeway Heights, hitting Midway Road and heading north down to 61<sup>st</sup> Street. He said he did not think it possible for the developers to figure out a way to make the water run uphill and jump into the ponds voluntarily, and for the stay there, being detained, for a while. Mr. Beard said that given the variety of problems they had faced that had not been addressed in 30 years, owing, understandably, to the cost involved, he thought the City should avoid creating new problems and making the situation worse. He observed that there were hundreds of acres that were undeveloped and questioned whether they wanted to set the bar at such a level when golden opportunities presented themselves to develop land elsewhere, where people wanted to live. He pointed out that the zoning was designed to protect the existing people in a particular area, stating that they were not against development, but only wanted the right kind of development. He related that 30 years ago, there would be a heavy rainfall where he lived and he wouldn't be trapped, whereas for the past 10 or 15 years, 3 or 4 inches of rain meant he was trapped on his property, with no one being able to reach him, including emergency vehicles. Therefore, he opposed the plan for safety reasons relating to the lack of infrastructure. He concluded by saying he believed that a vote of approval by the Council would be unfair to the people who lived in the area, and that it would, furthermore, be a disservice to all the people of Broken Arrow, in view of the problems the development would pose and all of the tax dollars it would take to fix them.

Mr. Larry Wilkenson, 6501 South 241<sup>st</sup> East Avenue or Oneta Road, gave a PowerPoint presentation also passing out photographs, relating some of the concerns he had about the sanitary sewer, based on his own observations. He pointed to sanitary sewers in the photos, situated in various spots, including in the grass, the street, and a bar ditch, partially in the road. He indicated the sanitary sewer pump station where he said there was a manhole draining into Adams Creek, and recalled that in the past year two new pumps had been installed. He pointed out the manhole in a photo that had been taken the past Sunday, and the effluence surrounding it, stating that he certainly would not want to drink it. Pointing to the lagoon beside it, he said, as he understood, it was for emergency purposes. He informed the Council that he had bought his property in 1972, he knew it and its history very well, and had he had lived there, on the opposite side of the Creek, for the last ten years. Over the years, he said, he had seen the dikes of the lagoon fail, with raw sewage spilling over the dike into the Creek, and specified that it was not the Creek that had spilled over into the lagoon. He shared another photo from May 29, 2015, showing one of the manholes there leaking sewage into the bar ditch and the Creek. The situation he described lasted for days, under so much pressure the manhole that the cap could not be taken off. Mr. Wilkenson referred to the zoning ordinances which state that City would provide standards for public health, safety, and general welfare, in conjunction with the Comprehensive Plan. The zoning ordinance also stated that it would discourage any use of land that "because of its character or size would create additional requirements and costs for public services." He pointed out that the very busy street, Oneta Road, had no lane markings for traffic going in opposite directions, because, as he understood, it was not wide enough to accommodate such. If there wasn't enough space to put striping on the road and on the sides of the road where the sewer line were, it seemed to him that the City would have to purchase additional property if the City were to put in new sewer lines. Mr. Wilkenson questioned if the Mayor could assure the citizens that the present sewer infrastructure was sufficient to handle the additional influx the new development would entail.

Mr. Stephen Gray, Esq., with law offices at 3101 North Hemlock Circle, Broken Arrow, addressed the Council. He gave his home address, 3837 West El Paso Street, Broken Arrow, and stated that he was very proud of the community of Broken Arrow, in which he had raised his children. He brought to the Council's attention a gentleman, Mr. Jack Spradling, whom his neighborhood association had retained. He explained that Mr. Spradling was a civil engineer associated with Green Country Sewer Company, who had platted numerous subdivisions and commercial developments all over the greater Tulsa

area, and had also acted, formerly, as city engineer for the cities of Bixby and Skiatook. Mr. Gray went on to say that Mr. Spradling had looked into the matter relating to the item under consideration for him, in an effort to get some answers. Mr. Spradling was not able to get answers in a timely manner, although his involvement was, admittedly, recent. Mr. Spradling had questioned the capacity of the eight-inch sewer line to serve the 140 acres of Ridgeway Heights Development. Mr. Gray went on to say that there was also a question about the adequacy of the Adams Creek Lift Station to serve the additional loading of nearly 300 residents, but no information had been furnished to Mr. Spradling by the City, in order that a cogent evaluation might be made. Another of his questions concerned the location of a lift station in a floodway, which Mr. Gray found rather surprising. Mr. Gray commented that he didn't know that you could build anything in a floodway, but apparently, at some point in the past, the City had approved a lift station in the floodway. He submitted that more information was needed in response to his and the public's concerns. The Council had heard from an articulate populace not opposed to development per se, but asking for the public infrastructure to support the plan. Midway Road was, at best, an old county road that was annexed in, and that probably didn't have anything greater than four or five inches of overlay. Running construction equipment up and down to build 300 houses, would be questionable relative to wear and tear on the road. Furthermore, Mr. Gray questioned where children would walk since there was no sidewalk on the east side of the road, where the subdivision was being proposed. The last time he had checked, there was no Private Financed Public Improvement (PFPI) that had been proposed to improve this road at the intersection, and all the way up to the entrance of the proposed subdivision. In conclusion, Mr. Gray said that he knew that the Council's choice was a difficult one. He thought that some sort of Planned Unit Development (PUD), with, perhaps, an R-2 zoning designation would be better, but there was a need for public infrastructure to be in place to support this or any development plan.

Councilor Lester asked where Mr. Spradling would expect to get the information he had sought with reference to the sewer if they were just at the zoning phase. Mr. Gray replied that he thought Mr. Spradling was inquiring of the City engineering Staff, relative to the site in question. Councilor Lester stated that there were two-lane roads all over the City that were not developed with sidewalks and full-lane roads before property was developed. He added that if they waited for roads to be developed in that way, most of Broken Arrow would not be developed. Mr. Gray said he recognized the validity of Councilor Lester's point, but maintained that it was a matter of an old road that, he suspected, would not support so much traffic. They would then incur the cost of repairing a two-lane road that did not have a sufficient base to support the traffic, whether or not there were sidewalks. Councilor Lester thanked the speaker.

Mr. Mat McDaris, of 27691 East 56<sup>th</sup> Street, stated he was the owner of that property and had lived in Broken Arrow for 70+ years, running a business for over 50 years on Main Street. He said he could remember when the population of Broken Arrow was 2,500. When it rained where he lived you slid down the hill whether you wanted to or not. In 1957, on graduation night, it rained and part of Oneta Road was under 6 ½ feet of water over 71<sup>st</sup> St. So, he said, things were changing. His family had never protested additional housing addition anywhere in the area.

In response to comments by the public, first Mr. Shank brought up the Covington Creek drainage basin, wishing to clarify an issue. He asked Mr. Sewell if the site planned for development drained into that basin. Mr. Sewell replied no, that was not the case, it drained into the Timber Creek basin. Mr. Shank then summarized, stating that most of the comments and concerns were technical in nature, addressing engineering and development standards that are taken up at the preliminary and final platting phases, or taken up with earth change permits, or with building permits. What the hearing was about was whether the applicant's request complied with the Comprehensive Plan, and it did comply. The hearing was also to consider whether the rezoning request was consistent with the Broken Arrow Zoning Code, and it was. Several comments had been made about the type of housing that might be associated with the development not being conducive to the area or bringing the area down. According to Section 2.3 of the Zoning Code, the general purpose of residential districts allowed for a variety of housing types meeting the diverse economic and social needs of residents. One of the reasons Staff recommended approval, and the Planning Commission recommended approval, was because the proposed project did just that. Much comment had been about the lack of infrastructure to support the rezoning request. That was the development process backwards. Rezoning, recommending approval, approving the application, and then moving forward with platting, was where the infrastructure would come from. They'd heard from the traffic expert that the deceleration lane would improve traffic in the area, and that a signalized intersection would be installed by the City. Mr. Shank gave his assurance that, as a part of the platting process, the applicant would approach the City to lay the foundation for a street widening in the future. Development paved the way for infrastructure. The hydrologist stated that there would be detention ponds and adequate storm sewers to address flooding concerns, which would, in fact, improve discharge from the area and detain water from Ridgeway Heights. Mr. Shank said that a vote for



approval of the application actually sent the message that the Council did care about the City's infrastructure and all citizens and that that project was indeed consistent with the Comprehensive Plan and the purposes of the zoning code.

Councilor Eudey inquired whether there was a reason why the applicant's desire was brought to the Council in the manner that it was, rather than as a PUD. Mr. Shank replied that the application was in compliance with the Comprehensive Plan, and when a PUD was sought you were asking for something. He explained that he needed to allocate floor area differently among his uses and that he might need some more signage rights. What they were asking for completely complied with the Comprehensive Plan, with its intentions, and it was consistent with the zoning code. That was why no PUD application was filed, he said.

Mayor Thurmond asked if there were any more questions or anything to discuss.

Councilor Lester commented that everybody had done a very good job of presenting their concerns, and had brought up issues that were relative to issues that would come up later in the process. He stated the purpose of the hearing was to decide whether the rezoning application met the Comprehensive Plan. Looking at the way Broken Arrow had developed, having lived there a long time, he'd seen the way Broken Arrow's grown in population and he'd seen roads and developments out in his part of southwest Broken Arrow, that were two-lane roads, that developed into housing additions much like that, though perhaps in not quite that rural an area. He said he thought it was their responsibility, certainly, to look after issues citizens had raised, and with regard to flooding, 101<sup>st</sup> Street and Garnett Road where he lived flooded every time 2 inches of rain fell. All parts of Broken Arrow experienced issues that the City need to continue to try to address. Whether the debated housing addition was constructed or not, there were issues out in east Broken Arrow, as well as other parts of Broken Arrow, that still needed to be addressed. He stated he thought the application did meet the criteria of the Comprehensive Plan. Although there was a lot of work to do to determine whether the sewage capacity was there, it was not what was on the table that night. He shared people's concerns but did not think he could hold up development based on whether or not the road was a two-lane country road or a four-lane road. There would be a lot of standards they would have to hold up for the developer to meet. He felt the City Staff was doing a good job in dealing with the issues of storm water in that area and that was a plus. Again, infrastructure issues would come under consideration later in the process and, therefore, to his mind, the applicant had met the challenge of keeping in line with the Comprehensive Plan.

Mayor Thurmond voiced his agreement with Councilor Lester. He said that, in reality, they were there to decide whether the application met the zoning criteria, met the Comprehensive Plan, and whether it was a Level 2 project. The rest of the engineering design would come in the engineering stage. The meeting was not in keeping with something a developer was normally called to do, since the burden was on the City to meet all of the criteria regarding sanitary sewer requirements, storm water requirements, and traffic requirements. That would be their responsibility when they submitted plans. He stated that Broken Arrow had very stringent regulations, especially in relation to flooding. They had improved areas that were not built to the City's standards and had alleviated flooding, as required. A few years back Broken Arrow had won an award from the Flood Managers Association for Health (FMAH). He reiterated that the Council was deciding a legal matter on whether the application met a Level 2 Comprehensive Plan zoning, and he did think the application did meet the criteria.

Mayor Thurmond asked if there was anything more to discuss.

Vice Mayor Carter said that he took a slightly different view. Going back to the capacities of Broken Arrow's infrastructure system in that area, he read the General Purpose of Residential Districts Zoning's statement requiring they meet with the Comprehensive Plan and with the standards of public health, safety, and general welfare. I said he saw the sewage capacity in that area as being inadequate. From all the photos and from his own experience, having lived in the area 15 years, it really bothered him to think of putting 231 more homes under that capacity that would be facing the same problems and dangers of citizens already in the area. He would prefer and vote to get the infrastructure entirely right before the zoning were changed in any way. He explained that he did not want to approve development when they were not prepared to take care of the people that would come to live there, investing their money and lives, when there was potential danger from inadequate sewers or flooding. He would like to see the infrastructure in place first, unlike the way it had been done for 50 years, and not have to provide a remedy later, when someone had already been injured. Councilor Lester asked whether that was not part of the development process, to make sure that all that was in place they proceeded along. Vice Mayor Carter answered that he understood, but pointed out that even if the developer did everything they were supposed to do in the development itself, if the City were not prepared to take care of it from their end, it would not be good. They would be putting in a nice development with all the right plumbing and streets and everything else, but unless the City and the adjacent public land were not ready to take it on with capacities for sewer and traffic, then they would

just be shooting themselves in the foot. Councilor Lester asked if they were changing the standards across the City then, because they would have to be consistent in applying that standard. Vice Mayor Carter replied that maybe they needed to look at the Comprehensive Plan and do it across the City, and adding that the Plan had been written a long time ago. Vice Mayor Carter recalled the annexation of some additions down around the County line that were built according to standard and everything looked good until big rain one night that flooded homes. The City subsequently spent a lot of money to correct the problem, however, he wondered why problems had to be addressed after the fact. Councilor Lester argued that he believed the process dealt with that in terms of the detention requirements, countering that stipulating four- or five-lane roads, new plumbing or sewer systems, and everything else that goes with that, beforehand, would mean closing the doors and putting a stop to growth. Mayor Thurmond commented that the sanitary sewer could not be connected if they didn't have capacity, relating that there was one in south Broken Arrow just waiting for the connection to be done. He asserted that they did build in keeping with their standards and they were not widening the County standards. Vice Mayor Carter reasoned that he understood, but if they had an inadequate capacity in the first place and they built the addition, then how could the City hook into it? Councilor Lester replied that he didn't disagree although that he thought issues would be broached during the development phase and if the capacity were not there the Council would just turn them down.

Councilor Eudey commented that his was the first vote and that none of the speakers had made his decision easy, though he appreciated the comments because they were helpful. The City's extraordinary staff had taken a lot of time to put things together so that he could understand it. A number of things had to be considered. One thing they could not consider in their decision was the income or nature of the properties that are going to be built here. It would not be proper to do so. As long as the homes that were going to be built in this neighborhood — whatever they ultimately were — were built pursuant to City code, and built pursuant to the plan that would be ultimately approved by the City, that's was really beyond the purview of anything they could consider at present. He said he was to the concerns residents had and they were concerns relevant to every citywide development. However, Councilor Eudey stated that it was not on his radar in considering the question. He shared the same concerns as Councilor Carter with regard to infrastructure. The road in question made him nervous and although he would take the traffic experts at their word that the traffic would hold it, he'd driven on that road and it made him nervous. He was also wary about what he would be asking everyone in the vicinity to have to live with. I gave him pause, but it was also true that they could not consider solely that. They could not consider what would have to be done; they could only consider what would be done. However, he did have a concern that really hadn't been addressed except in Mr. Gray's query, and he thanked Mr. Gray for bringing it up. With all due respect and as a lawyer himself, Councilor Eudey remarked, Mr. Shank's answer was a lawyer's answer. It was a good answer, but a lawyer's answer. As he himself had stated at the last meeting, he was concerned about the density of the neighborhood relative to the infrastructure they did have in place. Development could not be stalled solely on the basis of infrastructure, but they had to look at what they were being asked to do and consider if it fit in with the overall community. He had consulted the zoning map and wasn't sure it really changed his mind because the property in question would be the first RS-3 in the area. He admitted that he would be more comfortable if it were a PUD so that they could have greater input, for lack of a better term. It was the first decision he had really struggled with, having concerns with the RS-3 zoning, and nothing presented that evening had addressed those particular concerns. He ended by saying that he would be glad to hear the thoughts of his colleagues on that.

Councilor Lester responded that RS-3 was not his favorite, but observed that the RS-3 development caddy corner to his own neighborhood in Tulsa had had no impact on his neighborhood. He understood that people didn't want an RS-3 next to an R-2 or an R-1 estates development, but having been in real estate for nearly 40 years he had found that whatever people said, it didn't impact it. There was an impact if they didn't keep their properties up, and that's one reason the City started requiring new developments to have home owners associations (HOAs) that maintain the property. To that degree, he was less concerned about any kind of development. It did not matter whether he himself liked or didn't like RS-3, it was what had been presented to them by the applicant, who had met the criteria up to that point. He maintained that they'd done everything they needed to do to move forward to the next level. Councilor Lester concluded by saying they could continue the discussion. Mayor Thurmond asked if there was to be any more discussion.

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

**Move to approve BAZ 1941 for RS-3 zoning as recommended by the Planning Commission and Staff subject to property being platted**

The motion was rejected by the following vote:

<b>Aye:</b>	2 -	Mike Lester, Craig Thurmond
<b>Nay:</b>	2 -	Scott Eudey, Richard Carter
<b>Abstain:</b>	1 -	Johnnie Parks

Mayor Thurmond gave a brief moment for the room to clear. Ms. Beth Anne Wilkening, City Attorney, clarified that the abstention vote counted as a nay, and so the motion was denied.

C. 16-081

**Consideration, discussion and possible approval of Resolution No. 903, a Resolution authorizing the City Attorney to agree to entry of judgment without admitting liability in the matter of Bank of America, N.A. v. Vicky L. Nettles, et al., Tulsa County District Court Case No. CJ-2015-1352, and directing the City Attorney to prepare and file the necessary documents to effectuate the Journal Entry of Judgment, including the resolution of the Court's approval pursuant to 51 O.S. §158.**

Ms. Wilkening stated that the Item under consideration was actually one of those unique cases where the City was not necessarily admitting that we did anything wrong, and, in fact, it concerned a foreclosure action that had been filed. Essentially the resolution would allow the City of Broken Arrow to settle the amount of its liens in the amount of \$437.64. Because the property would go to sheriff sale, vote on the resolution represented the formal way to resolve, without admitting liability, in compliance. She recommended that the Council approve resolution 903 and authorize its execution.

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

**Move to approve Resolution No. 903 and authorize its execution**

The motion carried by the following vote:

Aye: 5 -

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

D. 16-112

**Consideration, discussion and possible approval of Resolution No. 904, a Resolution authorizing the Legal Department to file an Answer agreeing to vacate the Steele-Morrell Center Plat and part of the Arrow Village Plat, generally located on 71st Street (Kenosha Street) and 14th Street, and waiving any objections to the Petition to Vacate as consistent with the requirements for the approval of PUD 243 and BAZ 1946, in the matter of Collision Works Properties, LLC v. City of Broken Arrow, Tulsa County District Court Case No. CV-2016-0056**

Ms. Wilkening indicated that City Staff didn't have any problems with the proposed vacation. She explained that the particular resolution they were considering formally vacated the plat, as required by State law. She recommended that the Council approve Resolution 904 and authorize its execution.

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

**Move to approve Resolution No. 904 and authorize its execution**

The motion carried by the following vote:

Aye: 5 -

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

10. Preview Ordinances

A. 16-103

**Consideration, discussion and possible preview of an ordinance amending the Broken Arrow Code of Ordinances by amending Chapter 8, Cemeteries, Article II Park Grove Cemetery; Division 2. Babyland; Sec. 8-51., Created, to reflect the actual area used, Blocks 33 through 36, as designated for Babyland use, Sec. 8-55., Monuments and Markers, updated to include upright markers; and adding Division 3, Sec. 8-56., Created; Sec. 8-57. Niche, Sec. 8-58., Use of Property, Sec. 8-59., Identification of remains, Sec. 8-60., Cremains location, Sec. 8-61., Decorations, Sec. 8-62., Urn requirement, Sec. 8-63., Niche repair or destruction, Sec. 8-64., Errors, all providing for associated niche servicing and designating the remaining vacant blocks, Blocks 28 through 32 and Block 37 as an area for cremation niches; repealing all ordinances to the contrary; and declaring an emergency**

Ms. Wilkening said recalled that they had tried to preview the Item last time, but for some reason, the actual ordinance itself wasn't attached. For the sake of transparency to the public, they thought it best to preview it again, with the ordinance attached. Staff recommended that Council take that action.

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

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

The motion carried by the following vote:

Aye: 5 -

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

B. 16-082

**Consideration, discussion and possible preview of an ordinance amending the Broken Arrow Code of Ordinances by amending Chapter 23, Traffic, Division 2, Parking Meters; Section 23-154. - Meter zones; installation of meters; marking of metered spaces; and parking zones, specifically deleting Section 23-154(C)(1) and (2) which defines the boundaries of the central business district, deleting reference to the central business district to be replaced by the Rose District; and to allow defendants who receive parking citations in the area to request to be placed on a**

**Municipal Court docket to be heard before a Municipal Court Judge; repealing all ordinances to the contrary; and declaring an emergency**

Police Chief, David Boggs, explained ramifications of the ordinance. Years ago, he thought, there had been an ordinance in place that allowed for civil citations for parking meters and violations, but they'd gotten away from that practice over the last few years. This came to their attention as a potential concern from the Traffic Unit, pertaining to their discussion on the implementation of two-hour parking in the Rose District. The concern was that the penalty structure, being all criminal, would actually constitute a much stiffer penalty for the citizenry than a civil fine. The Unit worked with the Legal Department to come up with a proposed citation, which Mr. Boggs presented to the Council in person. For serious offenses, such as those pertaining to fire lanes, and handicap parking violations, they would continue to use the criminal side of the citation. However, they were looking to implement a civil parking ticket with a fine of \$25 for most of the offenses listed, and then implement another category for relatively minor violations which the police could deal with, using a less heavy hand than the criminal citations would impose. The Finance and Legal Departments had worked with them to allow it to be paid as one would pay a water bill.

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

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

The motion carried by the following vote:

Aye: 5 -

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

C. 16-134

**Consideration, discussion and possible preview of an ordinance temporarily establishing an alternative process for the review and issuance of building permits for buildings or structures designed for residential uses and proposed for location in downtown Broken Arrow, more specifically described as the one-half square mile area south of Kenosha Street, north of Houston Street, east of Elm Place and west of First Street; providing for an appeal process; providing effective and repeal dates; providing severability; and declaring an emergency**

Ms. Wilkening said that as the Council was aware, an arts and entertainment district had been established in the downtown area, with amazing results in the attraction of new mixed-use developments, including restaurants, retail stores, residential lots and offices, along Main Street and within the Rose District. She described the current downtown that included a core of museums, a farmers market, churches, city offices, long-established banks, restaurants, clothing, retail, furniture specialty stores, manufacturing, aviation simulation, and many other businesses. Also there were over 100 business, churches and services located in the corridor and in downtown and within the Rose District. Recently there had been some renewed in development of residential structures in the area. She believed there was a real desire, on the part of Staff and also the Chamber of Economic Development Corporation, to create something truly unique in the area. There was an existing downtown residential overlay, however, from a Staff perspective, it was contemplated that might wish to get some direction from an outside firm on some of the things that could be done to truly set the area apart. In the interim, they would be confronted with individuals coming in, desiring to move forward with residential developments. Initially it was suggested, that Staff consider bringing a Moratorium Request to the City Council, which tended to have negative connotations. She met with the City Planner and the Director of Development Services and they came up with the concept of an alternative review process, with the opportunity to meet with representatives of the Chamber and the City Manager. They decided to seek a way to make it work, in which development wouldn't be forced to come to a halt, and an additional overlay of the review would be provided in the interim." The idea was to create a coordinating committee, and the City Manager's was in the process of determining who would serve on the committee. The coordinating committee would have a couple of different roles, an important one of which would be issuing a Request for Proposal (RFP) to affirm, get some insight and input into the type of residential development that should go into the very important corridor. Secondly, while the RFP is issued and once it's received back, the committee would make recommendations to the City Council as to the direction to go in the interim, because the Council would be intimately involved in the process and there would be public hearings, etc. The Council would have an opportunity to review any applications for building permits that came in during that time. They would have an opportunity to review applications and such first-hand and make recommendations to Staff. As potential applicants for building permits might be dissatisfied with the recommendation of the coordinating committee, it would be very important to build in an appeal process. The Ordinance the Council was considering provided a right of appeal either to denial of the building permit for residential structure or, if they're dissatisfied with the conditions that are accompanying the building permit, then the City Council has the right of appeal. Ms. Wilkening said it was important to note that the Ordinance would expire by its own terms on September 16, 2016, and so, there would be no further Council action required and the review process would cease and desist at that time. However, the Council had the means to pass

a subsequent ordinance in order to extend the amount of time or change the parameters or the direction, should that be necessary.

Ms. Wilkening told the Council that there was one question she and the others she met with had. In a discussion she had with Councilor Lester, he brought up extending it beyond 1st Street. She thought it was the recommendation of planning Staff that the area be narrowed down a little bit, because that was primarily the area of the Rose District. Questions could be directed to Mr. Daroga or Mr. Spurgeon but should the Council want to do that, the change could be made before it came back for adoption.

Councilor Lester commented that it seemed strange to him that the district under discussion was only a block off on the east side, but six or seven blocks on the west side. Although he said he understood that Broken Arrow was growing that way, it seemed that they were painting themselves into a box in not going any further than 1st Street on the east side. There was more residential there on the east side, but perhaps in the long haul they might want to extend it.

Mayor Thurmond said there were discussions in the initial meetings on that particular question. They had had discussions to decide what that scope of the plan was going to be and they had raised the question of whether it should extend all the way to Washington Street or all the way from 9th Street to Elm Street. It hadn't been decided. Part of that RFP was to determine what that area would be, but the concern was not getting some residential projects started that weren't conducive to what they were envisioning there. He added that it was the one area there that could and might re-gentrify.

Councilor Lester was in agreement and said they needed to set some standard, adding that as long as they had gotten the review process in place, it was fine with him. Mayor Thurmond reiterated that applicants could appeal to the Council, but he thought that the Council needed to have input on the RFP when it were designed and specify what those standards were going to be. Councilor Lester agreed.

Councilor Parks commented that he was excited about the prospects, and underlined the need to reflect on making sure that they got quality, in keeping with the present downtown area. The concept was developing that they could think a lot broader in the future. The one question he had concerned the approval or disapproval of the coordinating committee to a particular builder, which could be appealed. He asked whether the members of the coordinating committee would be confirmed by the City Council. In other words, would the selection of the individuals on the committee be voted on and would it be a set committee with no changeover? Mr. Spurgeon replied that the individuals on the committee would be appointed by himself and if someone were to decide that they couldn't make the commitment during the interim period or the period that was set in place, then he would appoint someone else. He would have to confer with Ms. Wilkening on if the individuals named needed to be confirmed by Council and he didn't have a problem with their being confirmed by the Council. Councilor Parks stated that he, in turn, had no problem with Mr. Spurgeon appointing the committee members, but he saw the necessity of confirmation by the Council. The Council's confirmation would indicate that they were in agreement also and would show the public that the Council was aware. Mr. Spurgeon agreed. Mr. Spurgeon thanked the City Attorney, the City Planner and Development Services Director for all their hard work and went on to say that no one could deny that there was tremendous momentum in the downtown area, and in the entire community, as well, in both the residential and commercial development. Private and the public investments that had been made in the downtown area, along with infrastructure improvements, had generated a lot of interest for investment. A way to enhance those investments was, as the Mayor had mentioned, to create opportunities for additional residential property. There were many lots available there and a lot of opportunities. The City was having another opportunity to step back for a moment to look at how they were doing things, just as they had done in 2003, 2004, and 2005, to determine what Broken Arrow citizens wanted the downtown to be. Now that was in hand and it was coming to fruition. The next step would be to consider the residential and try to come up with some designs and alternatives to match the effort that had been made by both the public and the private sector to redevelop downtown. The way to continue the progress downtown was to create an opportunity for people to come have their plans reviewed. The new committee would have to include someone from Development Services to help lead the process, someone from ADC, and an architect that lives in town. Also, possibly, a builder or two, that has an understanding of what they trying to accomplish, besides himself. If anyone were not satisfied with a decision of the committee, then they could always go to the governing body. Lastly, it would be very important to plan press releases, to put them up on the Broken Arrow government website, and to send a letter to the President of the Homeowners Association to make them aware.

Councilor Eudey commented that although they presently had the time to study how they wanted the downtown corridor to look, it wasn't resulting in a moratorium on development. Development was continuing as they continue to study their choices for the future. Councilor Eudey voiced his approval of Councilor Lester's and Councilor Parks' ideas on the subject.

Mr. Spurgeon explained that in the timeframe they had, that was why they wanted to preview instead of bringing it forward. It would be advantageous if at the next meeting they could take a little extra time to actually go through the draft Request for Proposal, especially in light of the fact that they were planning on bringing in professional consultants. The company would have to be vetted to make sure that they had the experience and aid redevelopment, with respect to residential. They would then also take a look at the Ordinance and make sure that Council members and the Mayor were comfortable with its language because, obviously, when there was talk about changing something so important, where you have people making investments, you needed to take a pause. Mr. Spurgeon said he was seeking everyone's support even if it meant taking a couple of extra weeks to do the vetting, understanding the unique opportunity that was presenting itself concurrently with increased momentum downtown.

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

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

The motion carried by the following vote:

Aye: 5 -

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

**11. Ordinances**

**A. 16-021**

**Consideration, discussion and possible adoption of Ordinance No. 3386, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1685, granting a RS-3 zoning classification to be placed upon the tracts, generally located east of Olive Avenue, one-quarter mile north of Jasper Street, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency**

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

**Move to approve Ordinance No. 3386**

The motion carried by the following vote:

Aye: 5 -

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

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

**Move to approve the emergency clause for Ordinance No. 3386**

The motion carried by the following vote:

Aye: 5 -

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

**B. 16-065**

**Consideration, discussion and possible adoption of Ordinance No. 3387, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1622, granting a RS-3 zoning classification to be placed upon the tracts, generally located one-half mile west of 23rd Street, south of New Orleans Street, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency**

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

**Move to approve Ordinance No. 3387**

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 Richard Carter.

**Move to approve the emergency clause for Ordinance No. 3387**

The motion carried by the following vote:

Aye: 5 -

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

**C. 16-066**

**Consideration, discussion and possible adoption of Ordinance No. 3388, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1678, granting a CH zoning classification to be placed upon the tracts, generally located on the northeast corner of Albany Street and 23rd Street, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency**

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

**Move to approve Ordinance No. 3388**

The motion carried by following vote:

Aye: 5 -

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

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

**Move to approve the emergency clause for Ordinance No. 3388**

The motion carried by the following vote:

Aye: 5 -

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

**D. 16-067**

**Consideration, discussion and possible adoption of Ordinance No. 3389, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1918, granting an IL zoning classification be placed upon the tract**

**along with PUD 227, generally located south of State Highway 51, one-quarter mile west of Evans Road, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency**

MOTION: A motion was made by Johnnie Parks, seconded by Mike Lester.  
**Move to approve Ordinance No. 3389**

The motion carried by 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 for Ordinance No. 3389**

The motion carried by the following vote:

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

**E. 16-069** **Consideration, discussion and possible adoption of Ordinance No. 3390, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1640 and BAZ 1657, granting a RS-3 zoning classification to be placed upon the tracts, generally located one-quarter mile north of Houston Street, one-quarter mile west of Evans Road, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency**

MOTION: A motion was made by Mike Lester, seconded by Johnnie Parks.  
**Move to approve Ordinance No. 3390**

The motion carried by following vote:

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

MOTION: A motion was made by Richard Carter, seconded by Mike Lester.  
**Move to approve the emergency clause for Ordinance No. 3390**

The motion carried by the following vote:

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

**F. 16-070** **Consideration, discussion and possible adoption of Ordinance No. 3391, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1914, granting an ON zoning classification be placed upon the tracts, generally located one-quarter mile south of Florence Street, east of Aspen Avenue, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency**

MOTION: A motion was made by Scott Eudey, seconded by Johnnie Parks.  
**Move to approve Ordinance No. 3391**

The motion carried by following vote:

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

MOTION: A motion was made by Mike Lester, seconded by Scott Eudey.  
**Move to approve the emergency clause for Ordinance No. 3391**

The motion carried by the following vote:

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

**G. 16-071** **Consideration, discussion and possible adoption of Ordinance No. 3392, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1920, granting an RM zoning classification be placed upon the tract along with PUD 229, generally located on the southeast corner of Elm Place and Florence Street, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency**

MOTION: A motion was made by Mike Lester, seconded by Johnnie Parks.  
**Move to approve Ordinance No. 3392**

The motion carried by 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 for Ordinance No. 3392**

The motion carried by the following vote:

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

**H. 16-072** **Consideration, discussion and possible adoption of Ordinance No. 3393, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1926, granting an CG zoning classification be placed upon the tract along with PUD 233, generally located north and east of the northeast corner of 9th Street and Albany Street, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency**

MOTION: A motion was made by Johnnie Parks, seconded by Mike Lester.  
**Move to approve Ordinance No. 3393**

The motion carried by following vote:

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

MOTION: A motion was made by Scott Eudey, seconded by Mike Lester.  
**Move to approve the emergency clause for Ordinance No. 3393**

The motion carried by following vote:

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

**I. 16-073**

**Consideration, discussion and possible adoption of Ordinance No. 3394, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1344, granting an IL zoning classification be placed upon the tracts, generally located one-quarter mile south of Albany Street, one-half mile west of Aspen Avenue, has been platted as A.G. Industrial Park East, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency**

MOTION: A motion was made by Richard Carter, seconded by Scott Eudey.  
**Move to approve Ordinance No. 3394**

The motion carried by following vote:

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

MOTION: A motion was made by Johnnie Parks, seconded by Mike Lester.  
**Move to approve the emergency clause for Ordinance No. 3394**

The motion carried by following vote:

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

**J. 16-074**

**Consideration, discussion and possible adoption of Ordinance No. 3395, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1916, granting a CH zoning classification be placed upon the tract along with PUD 226, generally located one-third mile south of Omaha Street, west of Aspen, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency**

MOTION: A motion was made by Mike Lester, seconded by Scott Eudey.  
**Move to table Item 11J**

The motion carried by following vote:

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

**K. 16-096**

**Consideration, discussion and possible adoption of Ordinance No. 3408, an ordinance amending the Broken Arrow Code of Ordinances by amending Chapter 7, Business Regulations and Licenses, Article IV, Private Detectives, Patrolmen and Guards, Sections 17-61 through 17-70 Repealed, and Sections 17-71 through 17-74 Reserved, specifically to include regulation of Pedicabs; repealing all ordinances to the contrary; and declaring an emergency**

MOTION: A motion was made by Scott Eudey, seconded by Richard Carter.  
**Move to approve Ordinance No. 3408**

The motion carried by following vote:

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

MOTION: A motion was made by Richard Carter, seconded by Mike Lester.  
**Move to approve the emergency clause for Ordinance No. 3408**

The motion carried by following vote:

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

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

Vice Mayor Carter told the Council that he had been considering not running for Council again. He said that the bad news for everybody was that he was enjoying himself so much that he decided to try again next year for one more time. His experience as member of the City Council had been of benefit to him personally, and seeing Broken Arrow grow was gratifying. He went on to say that some of the new Ordinances and all the things they were involved in doing would help it some more.

Councilor Lester remarked that in light of the issue on the subdivision that evening, he thought they had seen how government works at its best. There was debate, there were differences of opinion, they agreed and disagreed. Ultimately, they took a vote and then went on to the next item. Unlike on many councils, there were no hard feelings. He concluded by saying that the meeting did bring out the very best of what was good about Broken Arrow.

Councilor Parks commented that he thought both sides did an excellent job in presenting that evening which made it very difficult for the Council. The citizens who spoke were



very well prepared, and certainly, the applicant was prepared too. He concluded by saying that in all his years, the meeting counted as one of the best, with regard to preparation by both sides, that he'd ever seen. Council members and the Mayor agreed that the discussion had been very civil, not emotional, and very professional. Mayor Thurmond added that at times the votes they made where they were just following their conception of the law, were hard to make, but it had been a long meeting that was very well done.

Councilor Eudey remarked that he thought the community could be proud of its Council, however, he didn't want them to make the decision so hard next time.

Vice Mayor Carter commented on the excellent quality of City Staff and volunteers throughout the community, who devoted hundreds and hundreds of their hours and dollars, contributing their thoughts and their energies to making it a better city, from Keep Broken Arrow Beautiful, to the police volunteers, to the school volunteers, to the civic. It was a town when he had moved there, but was a city now, and a wonderful place to live and work and raise a family, which was why he wanted to try for a little longer to make his own contribution on the Council.

Mayor Thurmond thanked the four volunteers to his left, saying he appreciated all they did.

### **13. Remarks by City Manager**

Mr. Spurgeon thanked Krista Flasch for putting together the Annual Report, along with Jennifer and Gail in his office. He was very proud of the efforts that were put into making it a very informative, quality document.

He reported that the previous week Krista and he had an opportunity to meet with some of his team to talk about the communications plan—a transparency plan—that they were going to implement in 2016. He would be sharing that with the Council in time, since there were a lot of additional opportunities to enhance what was already in place, in terms of their use of digital media. He was very glad that Krista would be leading that effort.

Mr. Spurgeon went on to say that he had met with the Build a Better Broken Arrow Committee the previous day. The Committee represented another great example the public/private partnership necessary to move a community forward. Members of the Economic Development Corporation (EDC) were also in attendance. He planned to update them on projects they'd helped support. He also wanted to make sure to bring them in early to make sure that they were vested in the projects and initiatives. He and Staff were going to be looking at additional bond propositions to enlist the citizens' as necessary support.

Mr. Spurgeon thanked Chief Boggs, with reference to the change in parking regulations, it was very important to consider the unintended consequences when making any change in rules, and Chief Boggs and his team came in and looked at it, coming up with something appropriate to fit the situation with reference to parking fines in Broken Arrow.

As Council was aware, in the past there had been some major problems with the County Line sewer trunk. He thanked Mr. Tom Kimbrough, who had informed him that day that all the repairs had been completed, and thanked his team for the important job they had done. The line was in real need of repair and the Council examining the matter in the coming.

Mr. Spurgeon said, last but not least, he had asked the Council, shortly after he had started, to create a second Assistant City Manager position, with a view to improving operational management of the City. At the upcoming meeting he would be giving a presentation showing the changes that he would be making, with regard to organizational structure and realignment. He would also share some of his observations and outline some of the priorities that he would like the Council to consider in 2016-2017 timeframe.

In connection with the Assistant City Manager recruitment, the search started in November 2015 and Human Resources sent well over 15 qualified candidates for the position. He added that the new appointee would be overseeing five departments, all public works related. A nationwide search was conducted and they did some screening. He formed a selection committee to advise him, and the search was narrowed down to two highly qualified individuals. Unequivocally, the best person for the position was Mr. Kenny Schwab, from their own backyard of Broken Arrow. Broken Arrow resident, and former City employee, Mr. Schwab had the education and credentials to fit the position. Referring to his quotes in a press scheduled for release the next day, Mr. Spurgeon read: "Mr. Schwab's professional knowledge, previous experience with City operations and Capital Improvement Program, coupled with his great communication skills will help make an immediate impact to our organization and our community." Mr. Spurgeon summarized that he was definitely honored that Mr. Schwab would be joining the Broken Arrow team, informing the Council that Mr. Schwab would be starting in his position on February 29th." Mr. Spurgeon welcomed Mr. Schwab, who was in attendance that night, and whom he had known for almost 20 years. Vice Mayor Carter said he had known Mr. Schwab since Mr. Schwab had been a child and he welcomed him also.

Mayor Thurmond asked for a motion to recess at 8:41 p.m. in order to enter into the Broken Arrow Municipal Authority and the Broken Arrow Economic Development Authority meetings.

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

Mayor Thurmond reconvened the regular Council meeting at approximately 9:23 p.m. and asked for a motion to recess prior to entering into the Executive Session.

MOTION: A motion was made by Scott Eudey, seconded by Mike Lester.  
**Move to recess prior to entering the Executive Session**

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

Mayor Thurmond asked for a motion to enter into the Executive Session at approximately 9:28 p.m.

MOTION: A motion was made by Mike Lester, seconded by Scott Eudey.  
**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 City Council, the City Manager, and the City Attorney, and possible action in open session regarding pending tort claims, including potential resolution, potential settlement, acceptance or denial of the claims and taking appropriate action in open session regarding the tort claim filed by Gary Clark; and the tort claim of Sandra Ventures, LLC, 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 tort claims 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.**

At approximately 9:38 p.m., Mayor Thurmond reconvened the regular session of the City Council meeting and the room was opened to the public. The Mayor asked if there was a motion.

MOTION: A motion was made by Richard Carter, seconded by Mike Lester.  
**Move to authorize the City Attorney to extend an offer of settlement consistent with Council direction in the tort claim filed by Gary Clark.**

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

MOTION: A motion was made by Richard Carter, seconded by Mike Lester.  
**Move to authorize the City Attorney to extend an offer of settlement in the amount of \$26,928.53 in the tort claim filed by Sandra Ventures, LLC.**

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

#### 15. Adjournment

The meeting adjourned at approximately 9:39 p.m.

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

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

Attest:

\_\_\_\_\_  
Mayor

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