



City of Broken Arrow

City of Broken Arrow
Council Chambers
220 S 1st Street
Broken Arrow OK
74012

Minutes - Final City Council

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

Tuesday, July 21, 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

Pastor Dan Hasse delivered an invocation.

3. Roll Call

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

4. Pledge of Allegiance to the Flag

Councilor Johnnie Parks led the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

Approval of the 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: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, and Craig Thurmond

A. [15-174](#) Approval of Broken Arrow City Council meeting minutes of July 7, 2015

This Minutes was approved.

B. [15-165](#) Acceptance of minutes of Planning Commission meeting held, June 11, 2015

This Consent Item was approved.

- C. [15-096](#) Approval of and authorization to execute Budget Amendment Number 1 for Fiscal Year 2015-2016
This Consent Item was approved.
- D. [15-195](#) Approval of a Letter of Agreement with Employer Advocates, LLC to provide employee health, welfare and human resources consulting services
This Consent Item was approved.
- E. [15-173](#) Approval of and authorization to execute a single day fee reduction for the Family Aquatic Center
This Consent Item was approved.
- F. [15-186](#) Approval of Pay Request Number 2 for Professional Design Services through the Vision 2025 Sales Tax Program in association with the Stoney Creek Hotel and Conference Center
This Consent Item was approved.
- G. [15-183](#) Approval of and authorization to execute an Amendment to the Vision 2025 Capital Improvements Agreement for Nienhuis Park Infrastructure
This Consent Item was approved.
- H. [15-177](#) Approval of and authorization to execute a contract for professional services between the City of Broken Arrow and Family and Children's Services to provide a Violence Response Program for Broken Arrow in Fiscal year 2015-2016
This Consent Item was approved.
- I. [15-144](#) Approval of proposals received, award of the most advantageous proposal to Hillcrest Exercise and Lifestyle Programs for the Broken Arrow Fire Department uniformed employee's biennial physical examinations, and approval of and authorization to execute a Letter of Intent for provision of these services
This Consent Item was approved.
- J. [15-179](#) Ratification of Amendment Number One to the Site Use/Lease Agreement between the City of Broken Arrow and Sprint Spectrum Realty Company, L.P.
This Consent Item was approved.

- K.** [15-154](#) Approval of and authorization to execute a Use Agreement with the Broken Arrow Genealogical Society for fiscal year 2015-16
This Consent Item was approved.
- L.** [15-129](#) Approval of and authorization for the sole source purchase of a Toastmaster VDesk video production and streaming system for the City Council Chambers from Rushworks.tv
This Consent Item was approved.
- M.** [15-190](#) Approval of and authorization to execute Major Change Order MC01 for Construction Contract ST1212, Henshaw Industrial Park Mill and Overlay
This Consent Item was approved.
- N.** [15-191](#) Approval of and authorization to execute Major Change Order MC01 for Construction Contract 116035C, Chisholm Trail Park South Electrical Phase 2
This Consent Item was approved.
- O.** [15-181](#) Approval of and authorization to execute Major Change Order Number 1 to include additional bid items to the Nuisance Abatement Property Structure Securing Contract with Momentum Services, LLC
This Consent Item was approved.
- P.** [15-168](#) Acceptance of a Utility Easement on an unplatted area belonging to Double Eagle Estates, LLC, located one-third mile east of Olive Avenue, one-half mile south of Tucson Street, Broken Arrow, Tulsa County, State of Oklahoma (Section 04, T17N, R14E)
This Consent Item was approved.
- Q.** [15-194](#) Acceptance of a Utility Easement located 1081 feet west and 24.75 feet north of the Tucson Street (East 121st Street) and South Aspen Avenue (South 145th East Avenue) intersection from Burnstein Family Investment Company, LLC and the Revocable Inter Vivos Trust of John F. Hausam (Section 33 T18N R14E)(Project #S.1307)(Sanitary Sewer Improvements Aspen Creek Relief Line)
This Consent Item was approved.

- R. [15-169](#) Acceptance of a Non-Exclusive Utility Easement on an unplatted area belonging to Forest Ridge Development Limited Partnership, for an area south of Kenosha Street and east of Midway Road, Broken Arrow, Wagoner County, State of Oklahoma (Section 11, T18N, R15E)
This Consent Item was approved.
- S. [15-170](#) Approval of PT15-107, Conditional Final Plat, The Reserve at Aspen Creek, 1 lot, 12.21 acres, A-1 to PUD 220B/RM, one-quarter mile west of Elm Place, north of Tucson Street
This Consent Item was approved.
- T. [15-166](#) Approval of PUD 238, a Planned Unit Development, and BAZ 1939, OK Transmissions, 1.03 acres, CH to PUD 238/IL, located west of the southwest corner of Albany Street and Aspen Avenue
This Consent Item was approved.
- U. [15-097](#) Approval of the July 21, 2015 Claims List
This Consent Item was approved.

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

Mayor Thurmond called for a public hearing regarding the Police Department's application for the Edward Byrne Memorial Justice Assistance Grant (JAG), and authorization to submit the grant application asking for anyone who wished to speak on this item.

Mayor Thurmond called a second time for anyone who wished to speak regarding this item.

Mayor Thurmond called a third time for anyone who wished to speak regarding this item.

There was no one who wished to speak.

Mayor Thurmond closed the public hearing.

Mayor Thurmond entertained a motion

MOTION: A motion was made by Richard Carter, seconded by Mike Lester. Move to authorize submission of the Edward Byrne Memorial Justice Assistance Grant

The motion carried by the following vote:

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

- A. [15-178](#) Conduct a public hearing regarding the Police Department's application for the Edward Byrne Memorial Justice Assistance Grant (JAG), and authorization to submit the grant application

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

No citizens signed up to speak.

9. General Council Business

- A. [15-201](#) Consideration, discussion, and possible appointment of a City Manager and possible direction for the City Attorney to draft an Employment Agreement for consideration at the next City Council Meeting

City Attorney Ms. Beth Anne Wilkening said that during a special session of the City Council of July 17, 2015 the Council interviewed two finalists for the position of City Manager. The two candidates were Mr. Larry Mitchell and Mr. Michael Spurgeon. Ms. Wilkening detailed the background of both candidates the details of which are available on the fact sheet attached to the agenda for the Council meeting. She said following the meeting of the 17th the Council took action authorizing Mr. Scott Reilly of Affion Public, the City's executive search firm, to extend an offer to Mr. Spurgeon for the position of City Manager. Ms. Wilkening said the Council further authorized Mr. Reilly to enter into negotiations for a compensation and benefits package. She said staff was also directed to prepare agenda items to prepare for the appointment during this Council meeting. She told the Council that a baseline agreement had been prepared which was provided to Mr. Spurgeon on July 20, 2015. Ms. Wilkening said that action requested of Council was to direct the completion of the agreement with Mr. Spurgeon that would be presented to Council at the next meeting.

Councilor Parks asked for the start date for Mr. Spurgeon. Ms. Wilkening said that her understand was that the start date would be September 21, 2015.

Councilor Richard Carter thanked Acting City Manager, Mr. Russell Gale and Ms. Wilkening and staff who worked so hard on the search. He also noted that the candidates that were presented by Affion Public were some of the best he had seen in his many years of working on the Council. He said that he looked forward to working with Mr. Spurgeon who he knew had wanted to work with the City of Broken Arrow for a long time.

MOTION: A motion was made by Richard Carter, seconded by Scott Eudey. Move to direct the City Attorney to prepare an Employment Agreement with Michael Spurgeon for the position of City Manager
The motion carried by the following vote:

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

- B.** [15-202](#) Consideration, discussion, and possible approval to pursue renewal of the Vision 2025 sales tax for City of Broken Arrow and Tulsa County purposes and discussion and possible direction for Staff to schedule a second Town Hall Meeting on this potential Vision 2025 extension

Mr. Russell Gale said the Metropolitan Cities have been capturing the Vision 2025 sales tax for each individual City's local purposes. He said that tax is scheduled to expire at the end of the Calendar year 2016. Mr. Gale said that as a result of the recommendations from the Fiscal Sustainability Committee the staff has discusses with the City Council the possibility of using .06 of one percent of the tax for public safety, capital improvements, and economic development. He added that discussions had also included the possibility of holding election in November of 2015. He said that since March, when there were public announcements of the City's united campaign the Metropolitan Mayors have been regularly sharing ideas on how best to use the funds. He said a common theme had developed among all the Cities to dedicate .005 of the sales tax to Tulsa County for projects directly under their management. He said Tulsa County could call an election on the .005 tax for county projects at any time. Mr. Gale said on June 24, 2015, a town hall meeting was held to obtain input from the public regarding the regarding the continuation of the Vision Sales tax. He said the plan was to hold a second town hall meeting during the first week of August. Mr. Gale said that staff requests authorization to continue to prepare for an election in November to capture .005 of the sales tax for Broken Arrow. Mayor Thurmond said the City had been meeting on the Vison 2015 since January of 2015 following the time line established by the Cities United Group and he stated that it was important to continue to move forward. He said an important concept that has been maintained is that there are no new taxes involved in the plan.

**MOTION: A motion was made by Mike Lester, seconded by Richard Carter. Move to authorize Staff to move forward with preparation for an election capturing the .055 of the expiring Vision 2025 sales tax, make .005 available for Tulsa County, and proceed with scheduling a second town hall meeting to obtain public input on proposed projects and services
The motion carried by the following vote:**

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

- C. [15-206](#) Consideration, discussion, possible approval of and direction to publish a 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 the property owner has requested annexation into the City. She said that the fourteen acre plot is contiguous as required by State Statute. Ms. Wilkening referred the Council to an attached Public Notice required by law to be published in a legally qualified newspaper of general circulation fourteen (14) days prior to the public hearing. City Planner, Mr. Farhad Daroga, responded to questions about existing structures on the property telling the Council that there was one single family home, a barn, and various temporary structures. He added that all were vacant. Ms. Wilkening asked what the property owner's intent was with regard to the property. Mr. Daroga said that the owner intended to demolish all structures and develop the property for commercial use. He said the property was zoned agriculture and would be annexed as is.

**MOTION: A motion was made by Johnnie Parks, seconded by Scott Eudey. Move to direct the City Clerk to public the Legal Notice of Annexation in a legally qualified newspaper 14 days prior to the public hearing
The motion carried by the following vote:**

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

- D. [15-145](#) Consideration and possible approval of BACP 145 (Comprehensive Plan Change) and BAZ 1938 (Zoning Change), 201 W. Commercial Parking Lot, 0.40 acres, Level 2 to Level 5 and R-3 to DM, southwest corner of Ash Avenue and Commercial Street

Mr. Daroga told the Council that the site was currently vacant and had been used as a construction site. He said the proposal was to change the comprehensive plan level from residential to downtown commercial mixed use. He said the request would include a zoning change from residential to the downtown mixed-use core district. He said the owner's intent was to convert the property into a parking lot for down town customers and the residents of the Loft Apartments. Mr. Daroga gave details of the development regarding fencing. Councilor Richard Carter said that he was pleased that care would be taken to preserve a Catalpa tree that was one of the first trees brought by the settlers of Broken Arrow.

**MOTION: A motion was made by Scott Eudey, seconded by Johnnie Parks. Move to approve BACP 145 and BAZ 1938 be approved subject to the recommendations of Staff, the Planning Commission subject to recommendations of staff, the Planning Commission, and other outlined details
The motion carried by the following vote:**

Mayor Thurmond recused himself and left the room.

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

- E.** [15-167](#) Consideration and possible approval of PUD 239 and BAZ 1940, Oak Grove Estates, 13.04 acres, A-1 to PUD 239/RS-2, located one-quarter mile south of the southeast corner of Jasper Street and Garnett Road

Vice Mayor Carter called on Mr. Daroga to give details. Mr. Daroga the Council that this was a proposal for a new development called Oak Grove Estates. He said the Council had recently annexed the property into the City and the applicant's proposal would develop up to 15 single-family detached residential lots on these 13.04 acres. He said the request in this item would change the current zoning from agriculture to residential. He said that the proposal does meet the Comprehensive Plan's guidelines.

**MOTION: A motion was made by Mike Lester, seconded by Johnnie Parks. Move to approve PUD 239 and BAZ 1940 as recommended by the Planning Commission, Staff, and the items presented
The motion carried by the following vote:**

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

Recused: 1 - Craig Thurmond

10. Preview Ordinances

There were no preview ordinances. No action was required or taken.

11. Ordinances

- A.** [15-193](#) Consideration, discussion and possible adoption of Ordinance No. 3355, an ordinance amending Chapter 7, Article I, In General, Section 7-2 of the Broken Arrow Code, License tax for itinerant merchants specifically prohibiting merchants from conducting business within 250 feet of a special event in which the City has entered into a contract authorizing such event; repealing all ordinances to the contrary and declaring an emergency

Ms. Wilkening said this Ordinance prevented itinerant merchants from conducting business within 250 feet of a special event in which the City has entered into a contract authorizing such event. She said that staff recommended adoption and approval of the emergency clause.

**MOTION: A motion was made by Johnnie Parks, seconded by Scott Eudey. Move to adopt Ordinance No. 3355
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 Scott Eudey, seconded by Richard Carter. Move to approve the emergency clause
The motion carried by the following vote:**

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

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 First Priority Bank 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.

At approximately 7:19 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 find that the Executive Session was necessary to process the pending litigation in the public interest
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 make an offer of settlement in the case of First Priority Bank v. the City of Broken Arrow consistent with Council direction
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 7:22 p.m.

**MOTION: A motion was made by Mike Lester, seconded by Scott Eudey.
Move to adjourn
The motion carried by the following vote:**

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

Attest:

Mayor

City Clerk