



**AMENDED  
MINUTES  
City Council**

*Mayor Craig Thurmond  
Vice-Mayor Scott Eudey  
Council Member Mike Lester  
Council Member Johnnie Parks  
Council Member Debra Wimpee*

**Tuesday, January 16, 2018**

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

**Council Chambers**

**1. Call to Order**

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

**2. Invocation**

Invocation was delivered by Pastor Tommy McLaurin.

**3. Roll Call**

**Present:** 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

**4. Pledge of Allegiance to the Flag**

Council Member Mike Lester led the Pledge of Allegiance to the Flag.

**5. Consideration of Consent Agenda**

Mayor Thurmond stated Item P should be tabled. He asked if there were other items to be removed. There were none.

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

**Move to approve Consent Agenda excluding Item P**

The motion carried by the following vote:

**Aye:** 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

- A. 18-94 Approval of City Council Meeting Minutes of January 2, 2018**
- B. 18-91 Approval of City Council Meeting Minutes of December 19, 2017**
- C. 18-169 Ratification of Workers' Compensation Court Order for Virginia E. Shaw, Police Department Employee**
- D. 18-176 Ratification of Workers' Compensation Settlement for Mike Burleson, General Services Department Employee**
- E. 17-2999 Approval of and authorization to execute a renewal with CoreSource, Inc. to continue to provide third party administration for the employee health and dental plan**
- F. 18-148 Approval of the proposed Steering Committee, the Technical Advisory Task Force and the list of stakeholders to interview, for the Vision 40 Comprehensive Plan update**
- G. 18-143 Approval of and authorization to execute an application for the 2018 Road to Zero Safe System Innovation Grant from the Federal Highway Administration for protective barriers on Lynn Lane**
- H. 18-139 Approval of and authorization to execute a Letter of 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. 18-174 Approval of and authorization to execute Amendment No. 1 to a 2017 Promotional License between the City of Broken Arrow and Ice Challenge Enterprises, LLC for the installation and operation of an outdoor holiday ice rink at The Rose District Pavilion**
- J. 18-150 Approval of bids received and award of the most advantageous bid to Casco Industries, Inc. for the purchase of five (5) Thermal Imaging Cameras for the Fire Department**
- K. 18-146 Approval of bids received and award of the most advantageous bid to Premier Truck for the purchase of one truck mounted asphalt oil distributor from Premier Truck, for the Street Division of the Streets and Storm Water Department**
- L. 18-147 Approval of bids received and award of the most advantageous bid to Perfection Equipment for the purchase of two service bodies for the Signal Maintenance Division of the Streets and Storm Water Department**
- M. 18-170 Approval of bids received and award of the most advantageous bid to Shallow Creek Kennel for the purchase of a Police Canine**
- N. 18-157 Approval of and authorization to execute Change Order #1 for Construction Contract #176041; Events Park Security Lighting**

- O. 18-162 Approval of and authorization to execute Change Order #1 for Construction Contract #ST1819; Rose District Mill and Overlay
- P. 18-156 Approval of and authorization to execute Change Order #3 for Construction Contract Bid No. 16.162A; Portland Cement Concrete Repair
- Q. 17-2985 Approval of SP-286 (Specific Use Permit), Broken Arrow Wellness, 2.25 acres, IL, one-third mile south of Albany Street, one-eighth mile west of Aspen Avenue
- R. 18-130 Approval and authorization of Final Acceptance for the public improvements at The Cotton Patch Cafe located at 600 East Kenosha Street
- S. 18-173 Approval of PUD-269 (Planned Unit Development) and BAZ-1993 (Rezoning), Reserve at Aspen Ridge, 9.11 acres, A-1 to PUD-269/RS-3, located one-quarter mile north of Jasper Street, west of Aspen Avenue
- T. 18-163 Acceptance of a Utility Easement from Forest Ridge Development Limited Partnership, on property located south of Kenosha Street, one-half mile east of Midway Road, Wagoner County, State of Oklahoma, (Section 11, T18N, R15E)(Spring Hill at Forest Ridge Utility Easement 1)
- U. 18-164 Acceptance of a Utility Easement from Forest Ridge Development Limited Partnership, on property located south of Kenosha Street, one-half mile east of Midway Road, Wagoner County, State of Oklahoma, (Section 11, T18N, R15E)(Spring Hill at Forest Ridge Utility Easement 2)
- V. 18-165 Acceptance of a Utility Easement from Forest Ridge Development Limited Partnership, on property located south of Kenosha Street, one-half mile east of Midway Road, Wagoner County, State of Oklahoma, (Section 11, T18N, R15E)(Spring Hill at Forest Ridge Utility Easement 3)
- W. 18-166 Acceptance of a Utility Easement from Forest Ridge Development Limited Partnership, on property located south of Kenosha Street, one-half mile east of Midway Road, Wagoner County, State of Oklahoma, (Section 11, T18N, R15E)(Spring Hill at Forest Ridge Utility Easement 4)
- X. 18-167 Acceptance of a Utility Easement from Forest Ridge Development Limited Partnership, on property located south of Kenosha Street, one-half mile east of Midway Road, Wagoner County, State of Oklahoma, (Section 11, T18N, R15E)(Spring Hill at Forest Ridge Utility Easement 5)
- Y. 18-179 Acceptance of an Overland Drainage Easement from REIP, LLC, on property located one-quarter mile south of Omaha Street and one-quarter mile west of Elm Place, Tulsa County, State of Oklahoma, (Section 34, T19N, R14E)(Ronda Norton Center II)
- Z. 18-7 Approval of the Broken Arrow City Council Claims List for January 16, 2018

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

Items P was tabled.

MOTION: A motion was made by Mike Lester, seconded by Debra Wimpee.

**Move to table Item P**

The motion carried by the following vote:

**Aye:** 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

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

There were no Public Hearings, Appeals, Presentations, Recognitions, or Awards.

**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)**

Mayor Thurmond stated Citizen Harold Price signed up to speak.

Citizen Harold Price stated his address was 19951 Old Highway 51 SE, Broken Arrow. He stated he spoke during the City Council Meeting on November 7<sup>th</sup>, 2017 and asked for interim help regarding the toxic fumes emanating from his neighbor's property as he had filed a law suit against said neighbor. He reported Mr. Kenneth Schwab, Mr. Michael Skates and Mr. Joe Williford came to his assistance and he has been able to breathe fresh, clean air in his yard for the past month. He thanked Mr. Schwab, Mr. Skates, Mr. Williford and City Council for all assistance rendered.

**9. General Council Business**

- A. 18-180 Consideration, discussion, and possible action regarding PUD 266 (Planned Unit Development) and BAZ-1986 (rezoning), Centennial Crossing, 19.64 acres, A-1 to PUD 266/RM, east of North Elm Avenue, one-quarter mile south of Omaha Street

Mayor Thurmond stated he had a conflict with Item 9A and left the room at approximately 6:35 p.m. Vice Mayor Eudey also left at the same time.

City Attorney Beth Anne Childs stated PUD 266 and BAZ-1986 involved the 19.64 acres of undeveloped tract located east of North Elm Avenue, one-quarter mile south of Omaha Street. She reported the applicant requested the zoning on the unplatted property be changed from A1 to PUD

266 RN multifamily residential. She stated the Comprehensive Plan had been changed in advance of this; therefore, the rezoning would have been in conformance with the Comprehensive Plan. She stated the in the meeting on October 12, 2017 the Broken Arrow Planning Commission approved this request at a 4 to 1 vote. She stated the approval was conditional upon City Council formally effectuating this once platting was complete. She reported during the Public Hearing there were individuals who spoke including the applicant, the applicant's representatives, one individual who spoke in support and a property owner to the south who spoke in support, but expressed concern about the reduction in width of the landscaping buffer located along the south boundary. She stated this had been brought before Council for consideration at the November 7, 2017 meeting, but it was tabled, so it was moved to the meeting on November 21<sup>st</sup>, 2017, both the Mayor and Vice Mayor left the room during discussion due to conflicts, voting commenced and the vote was split between the remaining Council Members, 2 in support, 1 opposed, and after referencing the Oklahoma Guide for Municipal Employees she determined the request was denied. She reported the next day she met with Planning Staff and reviewed the Statute and Fact Sheet which explained the requirements in terms of percentages. She explained the Statute provided if the owners of 50% or more of the area within a 300 foot radius opposed the change through written protest then it could not become effective without a favorable vote of three-fourths of the members. She stated the file was pulled and it was noted no written protests had been filed in advance of the Public Hearing before the Planning Commission; therefore, her legal conclusion was incorrect. She explained it would only have required a simple majority (2 to 1 vote) for the conditional zoning to pass; however, the zoning would not take final effect without at least a vote of 3 Council Members in favor of an Ordinance which was the next step in the process.

Ms. Childs stated she received notification from Mr. Scott Hathaway who represented several homeowners who expressed concern regarding the vote. She stated his position was the actions of the Mayor and Vice Mayor constituted an abstention; therefore the Mayor's and Vice Mayor's votes should have been recorded as "no vote" which would have resulted in a 2 yes to 3 no vote. She reported after conducting much research and meeting with various experts, such as the Executive Director and General Council for OML (Oklahoma Municipal League) along with Margaret McMorrow Love from Oklahoma City, they too determined as she had that the Mayor and Vice Mayor had the right to step out of the meeting during a conflict, so the vote results held as 2 recused, 1 no, and 2 yes. She stated she felt it was important to put the matter back onto the Agenda for the Council's consideration for transparency purposes. She explained upon meeting with Staff and the City Manager it was agreed it was important to re-notify the residents within a 300 foot radius and advise this matter was going to be resubmitted for consideration and an opportunity to speak on this matter was again given.

City Attorney Childs stated in the interim she received notification from Mr. Laurence Pinkerton who represented Brown and Perkins in this matter who believed the prior approval of the simple majority should be allowed to stand and therefore there was no need for reconsideration. She stated Mr. Hathaway, on behalf of two of his clients, initiated litigation against the City of Broken Arrow, as well as Brown and Perkins. She intimated what started out as an incredibly unusual situation had involved into an extraordinarily unusual situation. She stated the City Clerk received notification, a letter in protest from concerned residents on January 11<sup>th</sup>, which included a cover letter with the signatures of 36 individuals, letters to the Planning Commission and protests, but this was information which had taken place in 2015 when the Comprehensive Plan change had gone forward.

Ms. Childs stated Legal recommended City Council to allow the interested parties to speak and reconsider the matter. She stated one issue raised was City Council was not supposed to consider a rezoning application within one year of the initial application; however, she believed Council had the right to deviate from this as the purpose of this section of the zoning code was to prevent individuals from reasserting rezoning applications over and over without any degree of finality. She stated this was a unique situation and transparency provided Council with an opportunity to reconsider it. She explained to effectuate rezoning required adoption of an ordinance which required a 3 to 0 vote. She stated she feared the owners and developers could theoretically expend hundreds of thousands of dollars in engineering costs and fees while moving forward through the platting process, which placed the City in a unique position, and she was not comfortable allowing the issue to languish. She stated she spoke with Doug Dodd who was a well-respected attorney with Doerner Saunders and asked for his assistance. She stated she forwarded an engagement contract within the City Manager's authority to have Mr. Dodd review this matter. Ms. Childs apologized for creating such confusion. She asked if there were any questions.

Council Member Lester stated he was starting his twelfth year on the City Council, and not one time during his past twelve years had Ms. Childs given the Council, the City, or the Citizens of Broken Arrow an opinion not thought to be in the best interest of all concerned parties. He stated he did not view the situation as Ms. Childs fault; Ms. Childs had acted in the best interest of the City, and he laid no blame upon her. Council Member Parks concurred. He stated he felt Ms. Childs had acted rightly. He asked when the ordinance would come before Council. He stated this was the key to determine if this rezoning would pass. He stated he felt if the ordinance would not be a 3 to 0 vote then the issue was moot as it would not pass regardless.

Ms. Childs stated typically the process would be to allow the applicant to meet all of the requirements for the rezoning before it came back before Council; however, this was an unusual situation and if Council did not take action it could directly affect the City and the Council from a

liability standpoint. She stated next Council Meeting the litigation would be on for Executive Session and Mr. Dodd would be present. She stated putting the Ordinance on at the next meeting had been discussed. She stated the possibility of a resolution which asked Council to direct Legal within the bounds of the existing litigation to move forward with a “declare toward judgment” action had been discussed. She explained the rationale was the court would then determine if the decision of the governing body regarding rezoning application was arbitrary or capricious.

Council Member Lester asked if there were any more questions. There were none.

Mr. Laurence Pinkerton stated his address was 15 East 5<sup>th</sup> Street, Tulsa, OK. He stated he was present on behalf of Brown and Perkins, the applicant, who wanted to assist in terms of clearing away all concerns. He reported it was the position of Brown and Perkins that the Council had acted on the application and by participating and trying to assist matters, Brown and Perkins was not waiving the position that the matter had already been voted upon, and approved, by the Council. Mr. Pinkerton introduced Mr. Alan Betchan, the engineer for Brown and Perkins.

City Attorney Childs commented Mr. Pinkerton had forwarded a letter regarding this matter, which in turn was provided by the City Clerk to the City Council Members, and would be made part of the record, as had Mr. Hathaway.

Mr. Alan Betchan stated he was with AAB Engineering, 200 North McKinley, Sand Springs. He stated he felt it was important to review the original application as presented. He explained this was a zoning case which was in conformance with the Comprehensive Plan and the PUD been previously presented, voted on, and approved. He stated many other issues had been discussed, and he was not denigrating the relevance of said issues, but he felt many were issues which would be discussed and dealt with at the platting stage. He explained drainage, traffic circulation, etc., were technical aspects which would be worked through during the design process. He stated the zoning stage was not the proper time to deal with those issues; zoning dealt with conformance to the Comprehensive Plan, which was what he brought forward. He reported, with that being said, many of the issues that were brought forward had already been specifically addressed in the design; draining being a significant issue, there had been an extensive study which included the detention facilities for the school and the basin as a whole. He explained part of this project included and ultimate detention facility design and construction, which would happen as a part of the plat, and included reanalyzing the school’s existing facility, combining the facilities, constructing a new outlet structure, and improving the current drainage situation. He stated AAB Engineering was significantly improving drainage and was genuinely looking at a macro approach; therefore, he felt AAB was not only meeting the standards, it was exceeding the standards. He stated regarding school overpopulation, it was his understanding, in conversation with the school specifically, there were less students generated from the current apartments than what an equivalent single family residential housing addition would generate for them. He stated the school had been in extensive conversation with the developer and looked forward to the improvements to the detention facility and even allowed the developer to work on school property as a part of the project. He reported as a result of the work done the schools would have space for new soccer fields. He asked if there were any questions.

Council Member Lester stated there were 11 people who signed in opposition to the item who did not wish to speak. He stated this was duly noted.

Mr. Scott Hathaway stated his address was 2510 East 45<sup>th</sup> Street, Tulsa, OK. He stated he was an attorney with the law firm Connor and Winters and had been asked by Broken Arrow property owners, who were against PUD 266, for representation. He stated he would not go through all the specific concerns of his clients, but he wanted to impress upon the Council that this was serious enough for his clients to authorize him to file a petition for declaratory judgment finding that the vote cast on November 21<sup>st</sup> was a vote against the matter and it should be concluded. He stated there were a number of statutory schemes and codes which governed a council’s actions, and one of the sources was the Standard Code of Parliamentary Procedure which contained a rule regarding conflicts of interest which provided that council members had a moral and legal duty to report any conflict of interest which may arise in connection with their service as a council member, and additionally a member must abstain from voting if a member has a financial interest or conflict of interest in the outcome of a vote. He stated the operative word in the provision was “abstain;” if a council member was abstaining from the vote it was, by law, a “no” vote. He explained as two of the Council Members had a conflict of interest at the Meeting on November 21<sup>st</sup> Meeting, the votes should be counted as no votes whether they were in the room during the voting or not. He stated with two no votes from the abstaining Members, another Council Member’s no vote, and only two yes votes, the matter did not pass. He stated this denial was critical to the Council’s decision to act on this as under the Broken Arrow zoning ordinance, if a proposed zoning amendment was denied then the Council could not reconsider the matter for another year. He stated while Counsel opined City Council could reconsider the zoning amendment, the Council should make a motion to have the matter reconsidered and then vote on the motion for reconsideration which he felt, assuming the voting commenced as it had before, would deny the motion and the matter would not go back before Council. He thanked City Council for its time and asked Council to honor the vote in the November Meeting and finalize this matter as no.

Council Member Lester asked if there were any other questions. There were none.

Council Member Parks commented that his vote, in favor of, would not change. He had been reviewing this matter for months, maybe almost a year, and he felt there were several reasons he was in favor of this: as a PUD it gave the City authority over what types of materials were used, how many trees, etc. He stated at this particular level, level 3, duplexes, multifamily, mobile home district, neighborhood/mixed use district and office neighborhood were allowed to be constructed without a PUD. He stated if a housing development chose to build in this area the City would have no jurisdiction; however, with the PUD the City would have some jurisdiction over what was built. He stated the school had been concerned about parking, loading and unloading of school buses, and all of this would be provided. He explained his only issue was making certain there was a through road, and he understood many residents did not want a road tied back into the subdivision, but he felt ultimately one should be required as he was not comfortable with children unloading on a dead end street. He stated he felt there was a high risk of a child being run over by someone in reverse, also there was no through route for an ambulance or fire truck. He reported he was in favor of this being constructed close to the Broken Arrow Expressway; he always supported apartment complexes close to the highway to prevent excessive through-town traffic.

City Attorney Childs asked if Mr. Mark Perkins would like to speak.

Mr. Mark Perkins stated he lived at 821 East 3<sup>rd</sup> Street in Tulsa. He stated he was a partner and lawyer at Brown and Perkins and had reviewed this situation from many angles. He stated the item up for consideration was whether the zoning application, and the draft PUD with it, conformed to and was consistent with the Comprehensive Plan. He stated city staff, which he had worked in close coordination with, had confirmed that it was consistent with the Comprehensive Plan and recommended approval; next it was brought before the Planning Commission who confirmed city staff's conclusion 4 to 1. He reported city staff stated "the RN zoning being requested with BAZ-1986 is considered to be in conformance with the Comprehensive Plan in level 3. The design statement submitted with PUD 266 was similar in context to the draft PUD submitted, and therefore, based on the Comprehensive Plan, the location of the property and the surrounding land uses, Staff recommends that PUD and BAZ 1986 be approved." He stated it was Brown and Perkins' position the vote that occurred on November 21<sup>st</sup>, by the proper standard, actually passed. He stated the Broken Arrow Legal Department stated by the common practice of Broken Arrow the refusal was effectuated and did not count as a negative vote. He stated as a result of this project drainage would be greatly improved, and a bus turnaround would be constructed. He stated a memorandum between Brown and Perkins and Broken Arrow Public Schools (BAPS) had been signed which read "The goal is that this new detention facility will improve water detention conditions for Broken Arrow Public Schools, for the adjoining property owners to the east, and the construction associated with the detention facility will provide the opportunity to correct the sidewalk access problem." He stated the sidewalk would be improved and made safe for the children until the street eventually connected to Indianapolis. He mentioned the soccer fields and the collector street. He asked if there were questions. There were none.

Council Member Lester asked Mr. Hathaway if he would like to make any final comments.

Mr. Hathaway stated the provision he was referring to regarding abstention and the way and abstention was treated was a matter of statutory Oklahoma law, which trumped municipal codes. He stated this was the only clarification he wanted to make and he thanked the Council for its time and consideration.

Council Member Debra Wimpee stated her vote was to remain no. She explained her main concern was traffic congestion and she was not sure how this could be rectified at 51<sup>st</sup> and the Elm corridor. She stated she was concerned about overcrowding, as well as the safety of children in drop off and pick up. She clarified she was not anti-apartments, and would take each individual apartment project into consideration. She stated she was concerned about the pending litigation on the original vote, which affected her concern with doing a reconsideration at the present.

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

**Move to approve PUD 266 (Planned Unit Development) and BAZ-1986 (rezoning), Centennial Crossing, 19.64 acres, A-1 to PUD 266/RM, east of North Elm Avenue, one-quarter mile south of Omaha Street**

The motion carried by the following vote:

**Aye:** 2 - Johnnie Parks, Mike Lester  
**Nay:** 1 - Debra Wimpee  
**Recuse:** 2 - Scott Eudey, Craig Thurmond

Council Member Lester thanked those who attended the City Council Meeting in both support and opposition of PUD 266 and BAZ-1986. Ms. Childs stated based upon her review of the law numerous times the conditional zoning passed, and would return to Council in the form of an Ordinance at some time. She stated the litigation would be on the next City Council Meeting Executive Session in full compliance with the Open Meeting Act. Council Member Lester thanked Ms. Childs for her work on this matter.

Mayor Thurmond and Vice Mayor Eudey returned to the room at approximately 7:15 p.m.

- B. 18-182 **Consideration, discussion and possible approval and direction to publish a Legal Notice of Annexation for the voluntary annexation of approximately 38.73 acres located at North of Houston Avenue, between Midway Road and South 273rd East Avenue in part of the E/2 of SW/4 of Section 11, Township 18 North, Range 15 East of the Indian Base and Meridian, Wagoner County, State of Oklahoma, for the development of single family residential homes**  
City Attorney Childs stated this was an application for annexation of 38.73 acres located North of Houston Ave, between Midway Road and South 273<sup>rd</sup> East Avenue in Wagoner County. She explained this was the first step in a multistep process which involved direction of the City Clerk to publish notice of annexation in a legally qualified newspaper and provide notice in accordance of law. She stated the map and the notice were attached. She stated Legal requested Council direct the Clerk to move forward as directed. Vice Mayor Eudey asked if this was discussed at the previous meeting. Ms. Childs responded in the affirmative.

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

**Move to direct the City Clerk to publish 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 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

- C. 18-151 **Consideration, discussion, and possible approval to award the most advantageous bid to Carbonic, LLC for the purchase of a Breathing Air Compressor for the Fire Department**  
Fire Chief Jeremy Moore stated this was a routine budget item out of the STCI, Sales Tax Capital Improvement Fund. He explained this was specifically for a Breathing Air Compressor to fill the Self-Contained Breathing Apparatus for the firefighters. He reported purchasing sent out purchasing requests to eleven vendors and four submitted bids. He stated Mako Breathing Air Compressor was chosen as the most advantageous at a cost of \$51,851.00. He explained Mako was not the least expensive; however, Mako had a five year warranty as opposed to a one or two year warranty, the Fire Department currently used other Mako products, and had a maintenance contract with a Mako vendor. He recommended approval and purchase of one Mako Breathing Air Compressor from City Carbonic. Council Member Parks asked if the reasons the Fire Department felt this was the more favorable contract were listed. Mr. Moore responded in the affirmative; the fact sheet discussed the warranty, etc.

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

**Move to approve the purchase of a Breathing Air Compressor for the Fire Department from City Carbonic, LLC**

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

## 10. Preview Ordinances

- A. 18-175 **Consideration, discussion, and possible preview of an ordinance repealing Chapter 2 of the Broken Arrow Code, Article XVI, Broken Arrow Downtown Advisory Board, Sections 2-230, 2-231, 2-232, 2-233 and 2-234; repealing all ordinances to the contrary; and declaring an emergency**  
City Attorney Childs stated the Downtown Advisory Board was established by City Council Ordinance on October 3, 2005. She stated section 2-234 outlined the responsibilities of the Downtown Advisory Board (DAB). She commended the DAB for its efforts in developing, branding, and marketing Downtown Broken Arrow and the Rose District. She stated the City Manager met with the DAB and reviewed the DAB's accomplishments and sought insight and direction regarding the DAB's future role. She stated on January 9<sup>th</sup> the DAB voted unanimously to recommend the City Council dissolve the DAB. She stated this would be accomplished through an ordinance change. She stated she wanted to express on behalf of the City Manager, Staff and City Council the appreciation to all members of the Downtown Advisory Board whose contributions were evident by the outstanding development of the Downtown area. She stated staff recommended Council preview the ordinance and set it for adoption at the next Meeting.

Council Member Parks stated as the newest member of the DAB, he understood the DAB felt its mission had been completed and felt very positive about the dissolution. He stated he enjoyed his short time with the DAB and he, as a Council Member, appreciated the DAB's contributions.

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

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

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

## 11. Ordinances

- A. 18-158 **Approval of and authorization to adopt Ordinance No. 3493-CORRECTED, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1973, granting a DM zoning classification be placed upon the tracts, generally located on the northwest corner of First Street and Elgin Street, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency**  
Ms. Childs stated Legal had met with Planning Staff and determined there were opportunities to refine Ordinance No. 3493, Ordinance No. 3494, Ordinance No. 3495 and Ordinance No. 3496. She stated Staff respectfully requested City Council table these ordinances until the next meeting.

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

**Move to table Ordinance No. 3493, Ordinance No. 3494, Ordinance No. 3495 and Ordinance No. 3496 until the next meeting**

The motion carried by the following vote:

**Aye: 5 -** Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

- B. 18-159** **Approval of and authorization to adopt Ordinance No. 3494-CORRECTED, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving PUD 236, granting PUD 236 zoning classification be placed upon the tracts, generally located on the southeast corner of the Broken Arrow Expressway and Elm Place, repealing all ordinances or parts of ordinances in conflict herewith; and declaring an emergency**  
Tabled until next Meeting.
- C. 18-160** **Approval of and authorization to adopt Ordinance No. 3495-CORRECTED, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving PUD 255, granting PUD 255 zoning classification be placed upon the tracts, generally located one-half mile north of Houston Street, one-half mile west of 9th Street on the southeast corner of Main Street and Broadway, repealing all ordinances or parts of ordinances in conflict herewith; and declaring an emergency**  
Tabled until next Meeting.
- D. 18-161** **Approval of and authorization to adopt Ordinance No. 3496-CORRECTED, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1975 and PUD 214A, generally located on the northwest corner of Omaha Street and Evans Road, one-quarter mile west of the Creek Turnpike, repealing all ordinances or parts of ordinances in conflict herewith; and declaring an emergency**  
Tabled until next Meeting.

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

Mayor Thurmond stated it was cold outside and he wanted to warn citizens to be aware it could be dangerous outside; he urged residents to be safe and stay warm.

Vice Mayor Eudey stated the City Manager asked him to comment regarding his representation of Broken Arrow in Washington D.C. this past week. He reported he received a call from the National League of Cities asking, as he served on the Transportation and Infrastructure Committee with the National League of Cities, to address and speak to the staff of the United States Senate Committee on the Environment and Public Works which was preparing legislation pertaining to infrastructure, and funding infrastructure. He reported he had the opportunity to share with the Senate Committee the unique challenges Broken Arrow had in funding its own infrastructure and hopefully it would have an impact on the legislation. He stated he sat between the Transportation Commissioner for New York City and the Mayor of Santa Monica of California with a population of 18 million people; he felt he definitely represented the middle of the Country and populations that reflect the same. He stated he was able to meet and inform Broken Arrow's Senatorial Delegation how important this legislation would be to cities like Broken Arrow. He stated it was a privilege to serve in this manner and he was thrilled Broken Arrow could be a part of such a major discussion at the nation's capital.

## **13. Remarks and updates by City Manager, including Recognition of Recent Accomplishments by Employees and Elected Officials**

City Manager Michael Spurgeon thanked Vice Mayor Eudey for making the trip to Washington D.C. He explained it was a last minute request, but he felt it was a tremendous honor to be included. He thanked Kenneth Schwab for spending time with Vice Mayor Eudey to review Broken Arrow's infrastructure projects and how the projects were funded.

Mr. Spurgeon stated on the Consent Agenda, City Council approved a recommendation to award a contract for a new canine. He reported Maverick (a canine officer) would be retiring sometime this year; the canine unit was an integral part of police operations. He stated it was not inexpensive to train a canine and he thanked City Council for its support.

Mr. Spurgeon thanked the Downtown Advisory Board for its service. He stated when he met with the DAB he reviewed its accomplishments and he felt very comfortable that the City had the processes in place which development would follow. He stated the final piece of this was the implementation of the Downtown Residential Overlay District which had very specific guidelines regarding what could be built residentially and with the Planning Commission, zoning and ultimately City Council, the DAB felt there were sufficient entities in place to protect the City's interest and give good advice. He stated he supported the DAB's recommendation.

Mr. Spurgeon stated there were members of the Chamber of Commerce Leadership of Broken Arrow present, whom he wanted to recognize. He commended the future leaders for their efforts. He stated he wanted to announce publically City Council held a special work session Saturday to begin the process of vetting the projects and initiatives for the General Obligation Bond vote. He stated City Council met for approximately 4 hours Saturday morning and he

thanked City Council, Directors and staff for sacrificing Saturday morning. He stated a tentative date, August 28, 2018, had been set for the election. He explained this date was chosen as there was \$285 million dollars' worth of projects and initiatives which needed to be vetted and Council wanted public input as a part of the process. He stated he would provide periodic updates to the Community via the City Council Meeting. He stated there would be three strategically located Public Forums held towards the end of February to allow the public to become familiar with the proposed General Obligation Bond Package and to collect input regarding the projects.

Council Member Parks stated the Special Meeting on Saturday was very informative and he thanked City Manager Spurgeon and staff.

Mr. Spurgeon stated he initiated a new program called Broken Arrow in Motion Take 5, and periodically he would hold a quick conversation with a Council member, senior staff member or community member about what was happening in the City. He stated he had his first interview this evening with the Mayor regarding the Special City Council meeting on Saturday. He reported it would air in the next day or so, and he hoped to get all the Council members involved in the process.

At approximately 7:31 p.m. Mayor Thurmond stated he would entertain a brief recess to enter into Broken Arrow Municipal Authority and Broken Arrow Economic Development Authority.

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

**Move for brief recess to meet for Broken Arrow Municipal Authority and Broken Arrow Economic Development Authority**

The motion carried by the following vote:

**Aye:** 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

At approximately 7:32 p.m. Mayor Thurmond reconvened the regular session of the City Council Meeting. He stated there was an Executive Session and he called for a motion for a brief recess to clear the room for the Executive Session.

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

**Move for a brief recess to clear the room for the Executive Session**

The motion carried by the following vote:

**Aye:** 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

The Council returned to the room at approximately 7:36 p.m. Mayor Thurmond entertained a motion to enter into Executive Session.

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 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, 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 the following:**

**Workers' Compensation Court Case, Gary Snyder vs. City of Broken Arrow, Case No. 2012-01434L; to include updating the City Council, discussing appeal and other matters and taking appropriate action under 25 O.S. §307(B)(4); and**

**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. 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 Worker's Compensation claim, in the public interest.**

At approximately 7:47 p.m. Mayor Thurmond reconvened the regular session of the City Council Meeting and the room was opened to the public.

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

**Move to find the Executive Session was necessary to process the pending worker's compensation claim in the public interest**

The motion carried by the following vote:

**Aye:** 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

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

**Move to authorize the City Attorney to appeal the claim filed by Gary Snider to the Oklahoma Supreme Court**

The motion carried by the following vote:

**Aye:** 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

#### 15. Adjournment

The meeting adjourned at approximately 7:48 p.m.

MOTION: A motion was made by Johnnie Parks, seconded by Debra Wimpee.



**Move to adjourn**

The motion carried by the following vote:

**Aye:** 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

Attest:

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

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