



City of Broken Arrow

**Minutes
City Council**

City Hall
220 S 1st Street
Broken Arrow OK
74012

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

Tuesday, August 2, 2016

Time 6:30 p.m.

Council Chambers

1. Call to Order

Mayor Thurmond called the meeting to order at approximately 6:34 p.m.

2. Invocation

Pastor Daniel Isgrigg delivered the invocation.

3. Roll Call

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

4. Pledge of Allegiance to the Flag

Councilman Eudey led the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

Mayor Thurmond stated that it had been requested to remove item Q from the Consent Agenda. He asked if there were any other items to be removed. 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, excluding item Q

The motion carried by the following vote:

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

Recusing himself, Councilman Lester left the room at 6:35 p.m.

A. 16-727

Approval of City Council Meeting Minutes of July 5, 2016

B. 16-884

Approval of City Council Meeting Minutes of July 19, 2016

C. 16-879

Approval of a Workers' Compensation Court Order for Travis Blevins, a Police Department employee

D. 16-887

Approval and authorization to execute Budget Amendment Number 1 for Fiscal Year 2016-2017

E. 16-803

Approval and authorization to execute a Professional Transportation Services Contract with the Metropolitan Tulsa Transit Authority (Tulsa Transit) to provide public transportation services for Fiscal Year 2016-17

F. 16-873

Approval and authorization to execute an Interlocal Agreement with Independent School District No. 3 (Broken Arrow Public Schools) to provide funding for school crossing guards

G. 16-874

Approval and authorization to execute an Interlocal Agreement with Independent School District No. 9 (Union Public Schools) to provide funding for school crossing guards

H. 16-870

Approval and authorization to execute an Interlocal School Resource Officer Agreement with Independent School District #9 (Union Public Schools) for the provision of a School Resource Officer

I. 16-764

Approval and authorization to execute a Use Agreement between the City of Broken Arrow and the Broken Arrow Genealogical Society

J. 16-765

Approval and authorization to execute a Use Agreement between the City of Broken Arrow and the Broken Arrow Historical Society

- K. 16-789 Notification of Contracts, Change Orders, and Work Orders with a value of less than \$25,000 on Engineering and Construction Contracts and Contract Amendments since the last City Council Meeting
- L. 16-896 Approval and authorization to execute Change Order C01 for Construction Contract Number SW0910B, Fairway Park Detention - Regional Detention Phase II
- M. 16-872 Approval and authorization for Final Acceptance of the public improvements for Hardesty Center for Dance located at 3701 South Aspen
- N. 16-877 Approval and authorization for Final Acceptance for the public improvements for Spring Creek III subdivision located at Tucson and Aspen
- O. 16-866 Approval of BAZ-1959 (rezoning request), The Oaks Off Main, 0.96 acres, R-3 to DM, north of Commercial Street between Cedar Avenue and Birch Avenue
- P. 16-867 Approval of PUD-250 (Planned Unit Development request), Sonic Drive-In on Elm Place, 0.73 acres, CG/PUD-3, west of Elm Place, north of the northwest corner of New Orleans Street and Elm Place
- Q. 16-868 Approval of PUD-251 (Planned Unit Development), Land Run Brands, 0.48 acres, DM, southwest corner of Jackson Street and Main Street at 904 South Main Street
- R. 16-822 Approval of Broken Arrow City Council Claims List for August 02, 2016

6. Consideration of Items Removed from Consent Agenda

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

Move to approve item Q

The motion carried by the following vote:

Aye: 4 - Scott Eudey, Johnnie Parks, Richard Carter, Craig Thurmond

Councilman Lester returned to the room at 6:36 p.m.

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)

Richard Pisaturo, 2608 South Gardenia Place, offered his apologies to the City Council and the City Manager. Mr. Pisaturo explained that upon his return from vacation, he discovered he had had many calls from irate neighbors over the issue of sheds. One neighbor had received a letter from the City and the neighbor two houses away did not, which is who was in violation. Part of the controversy stemmed from that and had he known that the City was just doing a sampling, it would have been different. He, however, shouldered the blame. Mr. Pisaturo said he was sure they would come up with a fair and equitable decision for the good of all, and hoped that he and the City could work together in cooperation in the future. He knew that there would be disgruntled residents and offered his help in dealing with the Wolf Creek development once the Council's decision was made.

Informing the Council in full disclosure, City Manager Michael Spurgeon recalled that a question had arisen about a backyard shed. Approximately 25 letters went out to residents regarding the placement of sheds, unbeknownst to him, and if it were in violation he wanted it to be addressed. He wanted to be made aware of what transpired because he knew that Council members and the Mayor would hear about it. If residents came and exercised their right to speak at a public hearing or tried to contact the Mayor or individual Council members, it was important to him that the Council be aware of the matter and circumstances, so that they could act on in an informed way. He planned to approach the Council within the next month, or so, with a recommendation on the placement of sheds in backyards in certain zones. Obviously, they needed more flexibility in the matter and he was confident they could come up with a solution that would work for everyone concerned.

9. General Council Business

- A. 16-878 **Consideration, discussion and possible approval and authorization to execute the Fiscal Year 2016-17 Labor Agreement with the Fraternal Order of Police Lodge #170**
Jannette McCormick, Acting Director of Human Resources, reported that contract negotiations with the Fraternal Order of Police (FOP) Lodge #170 began in March for the Fiscal Year 2016-2017 Labor Agreement. They reached a tentative agreement on July 9th which was ratified by Lodge membership on July 22nd. The proposed agreement provided for revisions that included: administrative revisions to the Educational Reimbursement Fair Labor Standards Act; destruction of officers' property articles; increase in body armor subsidy amount from \$611 to \$800; increase in holiday leave from 96 hours per year to

106 hours per year; and elimination of the holiday credit for hours-scheduled work exceeding 8 hours on certain holidays. Also included was a change to the annual vacation accrual schedule, allowing a member to move from 160 vacation hours to 176 vacation hours upon 15 years of employment instead of 18 years; a 2.5% base wage increase for all bargaining Unit members effective July 1st; and an additional 3.5% pay stub added to the schedule for all ranks effective January 1st, 2017. Ms. McCormick stated that staff recommended that the Council approve the labor agreement and authorize its execution. Mayor Thurmond thanked Ms. McCormick, members of the FOP, and everyone who worked on the Agreement. He appreciated that it was drafted in a timely manner.

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

Move to approve the Labor Agreement with the Fraternal Order of Police Lodge #170 for Fiscal Year 2016-2017 and authorize its execution

The motion carried by the following vote:

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

- B. 16-911** **Review of bids received and awarding of the lowest responsible bid to H&G Paving, finding that a minor technical bidding error should be waived, and approval and authorization to execute a public construction contract for Leisure Park I Mill and Overlay (Project No. ST1509)**

Mayor Thurmond stated that he had received a request to table item 9B.

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

Move to table item 9B

The motion carried by the following vote:

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

- C. 16-865** **Consideration and possible approval of BACP-153 (Comprehensive Plan change request), Kum & Go 837, 1.15 acres, ARS-1, Level 1 to Level 4, west of Oneta Road, north of State Highway 51**

Development Services Director Michael Skates explained that the item before the Council was a request to change the Comprehensive Plan for approximately 1.1 acres, in connection with a proposed Kum & Go. Mr. Skates stated that the applicant wanted to expand and recalled that recently the Council had approved annexation of the property. The matter was brought before the Planning Commission and they approved it. It was recommended, therefore, that the Council approve the Comprehensive Plan change request.

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

Move to approve BACP-153 request to change the Comprehensive Plan designation of the property from Level 1 to Level 4, subject to the property being platted and a PUD being submitted similar in content to the draft PUD submitted with BACP-153, as recommended by the Planning Commission and staff

The motion carried by the following vote:

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

- D. 16-910** **Consideration, discussion, and possible approval of an amended application to the Tulsa County Vision Authority for Vision 2025 Surplus Funds**

Russell Gale, Assistant City Manager of Administration, recalled that in August 2015, the City Council approved submission of an application to the Tulsa County Vision Authority for Vision Surplus funds in the amount of \$2,737,500, to begin design and construction of several projects in the Rose District. In addition to that funding the public approved bonds, \$1,312,500 of which were sold under a General Obligation Bond, in January. The sale provided the City with just over \$4 million for the project. Due to a number of added improvements incorporated into the final design, along with some unanticipated costs, additional funding from the Vision Surplus Plan was needed to complete the project. Mr. Gale said that the attached, amended application was for the Council's consideration. They were requesting \$2,916,128 from the Surplus Fund to complete the project. Upon approval by the Council, it would be submitted to the Vision Authority at their August 10th meeting.

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

Move to approve submission of the Vision 2025 amended application

The motion carried by the following vote:

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

- E. 16-883** **Consideration, discussion and possible approval of Resolution No. 919 of the Council of the City of Broken Arrow, Oklahoma, establishing the Wireline Nine-One-One (911) Emergency Telephone Fee, of Five Percent (5%) for calendar year 2017 pursuant to State Statute and Ordinance**

City Attorney Beth Anne Wilkening stated that the Resolution was action the Council had to take every year, establishing the fee by state statute. Consequently, it gave them an opportunity to go back and check the numbers being generated, as the money went into a separate fund. They were continuing to make capital improvements, specifically to the dispatch system, which was more than covered. She added that it had remained consistent, at 5% over the past few years. She pointed out that one of the reasons why identifying collection of the fee was important was because there was a decrease in the use of hard lines with the increased use of cellular devices. Pertinent changes in the law had been made, which she would bring before the Council at a future time.

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

Move to approve Resolution No. 919 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. 16-890 **Consideration, discussion and preview of an ordinance closing a utility easement on property located in Part of Lot Two (2), Block One (1), Hillside Crossings, a subdivision in the City of Broken Arrow, Tulsa County, State of Oklahoma, generally located north of the Broken Arrow Expressway and west of 9th Street; specifically repealing Ordinance No. 3412; repealing all ordinances to the contrary; and declaring an emergency**

Ms. Wilkening stated, in connection with the ordinance before them, they had discovered a lot that had been incorrectly identified. It was important therefore, that they go back and request that the Council repeal the previously adopted ordinance. She explained that the ordinance they were previewing was a little different than most because it contained words specifically repealing that particular previous ordinance, as well as any conflicting ordinances. In the spirit of transparency, she thought it important that the Council preview the ordinance again. Engineer/Construction and Development Services staff had reviewed it.

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

Move to preview the revised Ordinance and set it for adoption

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Richard Carter, Craig Thurmond
Abstain: 1 - Mike Lester

B. 16-774 **Consideration, discussion, and possible preview of Ordinance No. 3439, an ordinance amending Ordinance No. 3410, which temporarily established an alternative process for the review and issuance of building permits for buildings or structures designed for residential use and proposed for location in downtown Broken Arrow, in an area more specifically described as the one-half square mile south of Kenosha Street, north of Houston Street, east of Elm Place and west of First Street, provided for an appeal process, effective and repeal dates, and severability; said amendment to extend the effective date of Ordinance No. 3410 to allow additional time for approval and implementation of the proposed downtown overlay district; and declaring an emergency**

Ms. Wilkening recalled that several months prior it had been requested that the Council adopt Ordinance No. 3410, establishing an alternative review process for residential development in the area identified in the Ordinance's title. She reported that staff had made very good progress in cooperation with the Broken Arrow Economic Development Corporation and the Chamber of Commerce. The Legal Department had the opportunity to review two projects, and was conducting review of a third residential project in the area. It was fortunate that two professionals in the area served on the Review Committee providing excellent suggestions and input. The developers were very excited about opportunities the projects presented and were very receptive to the suggestions made by the Committee. An objective of the Ordinance was to allow them to move forward with residential development. By the same token, the Legal Department felt the need to monitor more closely than the present zoning code allowed. Ms. Wilkening informed the Council that they had identified a consultant who could prepare recommendations for an overlay district. The process was going slower than anticipated because of the expansive scope of the services they were providing, and it was also proving expensive. Staff were negotiating with them to bring down their fees and anticipated bringing a contract before the Council within the next month, or so. Ms. Wilkening added that it was originally intended that process remain in place until March 2017; however, the City Manager thought it a good idea to go ahead and bring it before the Council to update them. Secondly, Ms. Wilkening indicated that they wished to ask the Council, by approval of the ordinance, to extend the time period by one year, giving them sufficient time to engage the consultant. There would be many opportunities for public input when it went before the Planning Commission and they would also be engaging the services of the consultant to visit with members of the community on the matter. The Council would be afforded the opportunity to amend the zoning code and effectuate the proper legislation.

MOTION: A motion was made by Johnnie Parks, seconded by Scott Eudey.
Move to preview Ordinance No. 3439 and set it for adoption at the next meeting
The motion carried by the following vote:
Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

Mr. Spurgeon commented that he had heard loud and clear from the Council in their previous discussions, that the members of the Steering Committee were to remain the same, and secondly, that they wanted a workable plan. Several members of the Council impressed upon him the need to have regulations that people in the industry would understand, under which they would want to make investments in the community. Mr. Spurgeon pointed out that part of the reason they were negotiating the contract in a different manner than originally planned was that they had had no less than eight meetings with eight different builders, in which opportunities and obstacles in redevelopment within the one square mile were discussed. He was confident that they were getting close to an agreement that would not only help them put together the overlay, but would also identify areas where they could make improvements to public infrastructure to accommodate redevelopment of the residential area, just as they had done with respect to commercial and retail. They were taking a comprehensive and thorough approach since, in order for them to receive reimbursement through Vision Surplus, there had to be an overall plan. If he could come up with a concept, he could submit a request for reimbursement to the Vision Commission for the professional services the City would make use of.

11. Ordinances

A. 16-902

Consideration, discussion and possible adoption of Ordinance No. 3442, an Ordinance amending Chapter 2, Administration, Article IX, Employee Rules and Regulations, Section 2-165-Department director evaluation and compensation, and specifically revising the annual evaluation date and evaluation based upon traditional leadership tenets; repealing all ordinances to the contrary; and declaring an emergency

Ms. Wilkening said that the Ordinance they were considering was essentially in the same form of the one previously submitted. It amended the previous Ordinance, updating it by bringing it into compliance with current practice in the way that the City Manager managed department directors. It was requested that the Council adopt Ordinance No. 3442 and approve the emergency clause.

MOTION: A motion was made by Mike Lester, seconded by Richard Carter.
Move to adopt Ordinance No. 3442

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

MOTION: A motion was made by Johnnie Parks, seconded by Scott Eudey.
Move to approve the emergency clause for Ordinance No. 3442

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

B. 16-901

Consideration, discussion, and possible adoption of Ordinance No. 3443, an Ordinance amending the Broken Arrow Code of Ordinances, Chapter 2, Administration, Article I, In General, Section 2-8-Established, Appointment, Term; etc. of Assistant City Manager of Administration and Assistant City Manager of Operations; and specifically providing for duties as assigned by the City Manager, establishing a date of evaluation, compensation, merit bonuses and certain definitions; repealing all ordinances to the contrary; and declaring an emergency

Ms. Wilkening stated that the Ordinance before them amended the section of the Broken Arrow Code regarding Assistant City Managers. She explained that this would bring it in line, somewhat, with the department directors section. Additionally, the Ordinance identified a pay plan under which the Assistant City Manager positions would go, bringing it into compliance with current practice. Staff recommended that the Council adopt Ordinance No. 3443 and approve the emergency clause.

MOTION: A motion was made by Scott Eudey, seconded by Mike Lester.
Move to adopt Ordinance No. 3443

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

MOTION: A motion was made by Richard Carter, seconded by Mike Lester.
Move to approve the emergency clause for Ordinance No. 3443

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

12. Remarks and Inquiries by Governing Body Members

There were no remarks or inquiries by governing body members.

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

Mr. Spurgeon said he had a number to exciting things to mention to the Council. Firstly, he wished to express his appreciation to the teams that were instrumental in negotiating the Fraternal Order of Police (FOP) contract, and also to the Council for ratifying that agreement. He related that it had been ratified by the Broken Arrow Police Officers Association also, a few days before.

Mr. Spurgeon announced that present in the audience was the new Director of Engineering/Construction, Alex Mills. All would get a chance to meet him at a reception planned for him. Mr. Spurgeon informed the Council that Mr. Mills was a well-credentialed professional engineer with a great deal of experience, originally from Broken Arrow. Mr. Spurgeon stated that it was good to have another native of Broken Arrow in a leadership position, who was invested in the community. He added that Mr. Mills would start on the next Monday. He also wished to recognize Jeff Bigby’s stellar leadership, stepping in as Acting Director in the interim. The performance of Mr. Bigby and staff exceeded expectations. Mr. Spurgeon added that there were a lot of orange cones around town, reflecting the progress in projects moving forward.

Mr. Spurgeon stated that he had reached out to Tulsa’s Mayor-elect Bynum, congratulating him on behalf of the Broken Arrow City Council. He was looking forward to Mayor Thurmond and himself meeting with Tulsa’s new Mayor and the Deputy Mayor sometime after Labor Day, as a first step in building their relationship.

Mr. Spurgeon declared that Mr. Schwab had informed him that there would be a road closure in an important part of town. County Line Road, between 51st and 61st, would be closed for about 12 hours on the coming Sunday, August 7th, from 2 p.m. until early Monday morning. The closure was with regard to completion of storm water detention work tying in across the road, going west. The bulk of the work would be performed in the afternoon and evening, minimizing noise disturbance during the night.

Mr. Spurgeon related that tree limb pick-up after the storm was underway and Streets and Stormwater Director Steve Arant, along with his staff, were doing a great job in that effort. There was a lot of debris to be collected and they had made a couple of robocalls to inform the public about the City’s pick-up schedule. It would take about three weeks to complete the job.

He had learned that day that Broken Arrow was named the ninth most customer-friendly city in the United States. A press release was sent out following the announcement. The distinction came courtesy of Yelp, which had high credentials.

Lastly, Mr. Spurgeon announced that there would be a “pooch plunge,” closing the 2016 pool season. The Nienhuis Aquatic Facility would be hosting the event on August 14th, offering two time slots to accommodate dogs of varying sizes. The City would be closing the pools down temporarily, as children headed back to school, but they would re-open and stay open as long as possible, along with the splash pads.

Mr. Spurgeon reported that with the hot weather the City was averaging around 17 million gallons production for the month of July. A couple million gallons were taken from Tulsa but overall, the City continued to meet demands. He was pleased with water production and with the efforts of the water plant crews, in ensuring that the City’s water supply met the needs of citizens and businesses.

14. Executive Session

There was no Executive Session.

15. Adjournment

The meeting adjourned at approximately 7:03 p.m.

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

Move to adjourn

The motion carried by the following vote:

Aye: 5 -

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

Attest:

Mayor

City Clerk