



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, November 1, 2016

Time 6:30 p.m.

Council Chambers

1. Call to Order

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

2. Invocation

Pastor Rich Manganaro 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 there had been a request to remove item K from the Consent Agenda. He inquired if there were any further 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 K

The motion carried by the following vote:

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

- A. 16-966 Approval of City Council Meeting Minutes of October 18, 2016**
- B. 16-1318 Notification of Architect-Engineer Agreements and Professional Services Contracts and Amendments with a value of less than \$25,000**
- C. 16-1268 Ratification of a Disclosure Counsel Agreement with Hilborne & Weidman, a Professional Corporation for services related to the approval and issuance of General Obligation Bonds in one or more series**
- D. 16-1303 Approval and authorization to execute an agreement between Indian Nations Council of Governments (INCOG) and City of Broken Arrow for Congestion Mitigation and Air Quality (CMAQ) Funds for purchase and installation of ambulance idle reduction equipment**
- E. 16-1294 Approval and authorization to execute a Gas Facilities Relocation Agreement with Oklahoma Natural Gas Company for 9th Street Widening from Flight Safety to Houston Street (Project No. ST1210)**
- F. 16-1232 Approval and authorization to execute a Parks and Recreation Use Agreement between the City of Broken Arrow and the Broken Arrow Amateur Basketball Association**
- G. 16-1301 Approval and authorization to execute Albany Corridor Study Pay Request Number 2 to Cowan Group Engineering through the Sales Tax Capital Improvement (STCI) Program in association with the Stoney Creek Hotel and Conference Center**
- H. 16-1272 Approval and authorization to surplus six (6) ambulance cots for trade-in credit towards the purchase of six (6) new ambulance cots**
- I. 16-1293 Approval and authorization to purchase one Dodge Ram 1500 Crew Cab four-wheel drive Pickup from John Vance Motors pursuant to the State Contract for Development Services Department**
- J. 16-1283 Notification of Change Orders with a value of less than \$25,000 on public contracts**
- K. 16-1310 Approval of Planned Unit Development, PUD-252, The Shops at Broken Arrow II Amended, 18.90 acres, CH/SP-223, one-quarter mile east of 9th Street, north of the Broken Arrow Expressway**

- L. 16-1304** **Acceptance of a General Warranty Deed, Utility Easement, and Temporary Construction Easement for a tract of land that is part of Lot Six (6), Block Two (2), Lemon Addition, an addition to the City of Broken Arrow, Tulsa County, State of Oklahoma, according to the recorded plat thereof for the 9th Street Widening from Elgin to El Paso (Project No. ST1210)**

- M. 16-1296** **Acceptance of a Sidewalk Easement from AMERCO Real Estate Company for a U-Haul Store, located south of New Orleans Street, and approximately a quarter mile west of Elm Place, on a platted parcel of land that is part of Lot One (1), Block One (1), “Water Tower Park”, a subdivision in the City of Broken Arrow, Tulsa County, State of Oklahoma (Section 27, T18N, R14E)**

- N. 16-1298** **Acceptance of a Sidewalk Easement from AMERCO Real Estate Company for a U-Haul Store, located south of New Orleans Street, and approximately a quarter mile west of Elm Place, on a platted parcel of land that is part of Reserve C, “Water Tower Park”, a subdivision in the City of Broken Arrow, Tulsa County, State of Oklahoma (Section 27, T18N, R14E)**

- O. 16-1306** **Acceptance of a Temporary Construction Easement conveyed to the City of Broken Arrow a tract of land located in the N/2 W/2 NW/4 of Section 28, Township 18 North, Range 14 East of the Indian Base and Meridian, Tulsa County, State of Oklahoma for the New Orleans Street improvements from Olive to Aspen (Project No. ST1209)**

- P. 16-1308** **Acceptance of a Utility Easement and Temporary Construction Easement for a tract of land that is part of Lots Nine (9) and Ten (10), Block One (1), East Haskell Addition, an addition to the City of Broken Arrow, Tulsa County, State of Oklahoma, according to the recorded plat thereof for the 9th Street Widening from Elgin to El Paso (Project No. ST1210)**

- Q. 16-1302** **Acceptance of a Utility Easement and Temporary Construction Easement for a tract of land that is part of Lots Ten (10) and Eleven (11), Block One (1), East Haskell Addition, an addition to the City of Broken Arrow, Tulsa County, State of Oklahoma, according to the recorded plat thereof for the 9th Street Widening from Elgin to El Paso (Project No. ST1210)**

- R. 16-1311** **Approval of Specific Use Permit, SP-277, Tiger Plaza Daycare Facility, 6.23 acres, Zoned-CG, east of the northeast corner of 23rd Street and Kenosha Street**

- S. 16-840** **Approval of the Broken Arrow City Council Claims List for November 01, 2016**

6. Consideration of Items Removed from Consent Agenda

Mayor Thurmond stated that two citizens, Sharon and Tommy Austin, had signed up to address the Council on item K. Sharon Austin, 1605 North 15th Street, related that her house was situated at the end where sidewalk reconstruction was planned. Ms. Austin reported that they had a problem with trash. She was particularly concerned about the sidewalk with respect to the area between her property and the fence installed by the City. She went on to say that she, together with a couple of her neighbors, had been maintaining the area between the shopping center and their properties for a number of years and the trash problem had gotten out of hand. They felt obliged to pick up the trash, although none of them were young anymore. Ms. Austin explained that she had taken photos to illustrate her point in connection with the trash problem, and to point out also, a potential drainage problem if the new sidewalk were constructed. Ms. Austin added that people cut through her property and painted graffiti on her wood fence. It was not clear to her what the City’s plans were regarding the sidewalk and how the sidewalk would affect her and her neighbors. They didn’t want to be burdened with more trash.

Addressing Development Service Director Michael Skates, Mayor Thurmond said he was unaware whether the sidewalk had been laid out yet. He specified also, that item K covered zoning in relation to a Planned Unit Development (PUD-252). Mr. Skates pointed out the proposed sidewalk on a drawing displayed on the screen, explaining that it would create pedestrian access to the neighborhood to the north where, at present, there was the dead end to 15th Street. Mr. Skates stated that the existing fence stopped west of the street. In conjunction with the proposed development, the fence would be extended to the east property line (the green line on the map, below the number 7). The extended fence would contain an opening and would tie back into the subdivision where tract A was going to be developed. Ms. Austin inquired if they were going to open up the fence that was already there. Mr. Skates said they intended to replace the existing fence, adding that he and the applicant engineer would be willing to meet with her to show her the design plan, which took issues with regard to rain and flooding into consideration.

Tommy Austin, 1605 North 15th Street, said he had a few questions about the sidewalk. He asked what would happen with regard to the Public Service Company of Oklahoma (PSO) easement. The owners of the shopping center who put up the existing fence, told him that they didn’t know whether a sidewalk could be put in. The Mayor stated that by Ordinance it was required that to connect the pedestrian walkway a sidewalk would have

to be installed. The Mayor said that Mr. Skates had indicated that the sidewalk would go through the fence, connecting to the existing sidewalk. Mr. Skates said they could ask the engineer, who was present, about specific details of the plan. He assured the Council that the engineer, the consultant, and staff would be in touch with the Austins in order to shed more light on the project for them. Mr. Skates maintained that their goal was to prevent vehicular access and provide a direct pedestrian route for residents to the shopping center, avoiding their having to go all the way around to 9th Street and Hillside Drive. Citing shared driveways and the mutual crossover, access and parking as mentioned in the plan, Councilman Parks asked if the shopping center was under one or several owners. Mr. Skates replied that it was under ownership of one party. Mr. Skates affirmed that the Planning Commission had approved the project unanimously.

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

Move to accept PUD-252

The motion carried by the following vote:

Aye: 5 -

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

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

A. 16-1292

Presentation by Oklahoma State Representative David Brumbaugh acknowledging work of the City staff

Representative David Brumbaugh stated that great cities like Broken Arrow were able to exist and flourish because of great staff under a City Manager. The strides the City was making with respect to infrastructure attested to the great job Assistant City Manager of Operations Ken Schwab, Assistant to the City Manager/Economic Development Coordinator Norm Stephens, new City Manager Michael Spurgeon, and their respective staffs, were doing. Representative Brumbaugh declared that it was his pleasure to present the Citation reading, "Whereas the City Manager's Office of Broken Arrow, Oklahoma, is responsible for all of the operations that keep the City running, as well as being an integral part of the implementation of policies adopted by the City's elected leaders and overseeing tasks necessary for City operations, and whereas the City's Manager's Office of Broken Arrow and the team of the City of Broken Arrow have proven to have upheld these duties and responsibilities in a remarkable and professional manner, and whereas the City Manager's Office of Broken Arrow have received the respect and appreciation of City leaders and citizens, and whereas the Oklahoma State House of Representatives takes great pride in recognizing the City of Broken Arrow City Manager's Office for their outstanding service and unmatched dedication to excellence, now therefore, pursuant to the motion by Representative David Brumbaugh, the Oklahoma State House of Representatives extends to the City Manager's Office of Broken Arrow, sincere congratulations and directs the Citation be presented." City staff received a round of applause.

City Manager Michael Spurgeon stated that he appreciated the Citation, observing that it reflected a team effort and his Office was only as good as the City Council that supported them, along with the Directors and staff that went out and made things happen. He accepted the award on behalf of Broken Arrow's outstanding team, of which he considered Representative Brumbaugh to be a part and with whom they enjoyed working.

A photograph was taken of Mr. Spurgeon holding the Citation, alongside Representative Brumbaugh.

8. Citizens' Opportunity to Address the Council on General Topics Related to City Business or Services

No citizens signed up to speak on general topics.

9. General Council Business

A. 16-1322

Consideration, discussion, and possible approval and authorization to execute a Fourth Amendment to Capital Improvements Agreement by and between the Board of County Commissioners of Tulsa County, Oklahoma, and the City of Broken Arrow related to improvements in the Rose District

Assistant City Manager of Administration Russell Gale reported that before the Council was the Fourth Amendment to the Capital Improvements Agreement between the City and the Board of County Commissioners of Tulsa County, to use Vision Surplus funds for streetscapes covering improvements in the Rose District. He recalled that the Council had previously approved the application to the Tulsa County Vision Authority for funding in July 2016, stating that with their approval, the total funding for the streetscapes and related the projects, including the interactive fountain, would be \$5,653,628. It was requested that Council approve the Amendment.

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

Move to approve the Fourth Amendment to Capital Improvements Agreement relating to Rose District improvements and authorize its execution

The motion carried by the following vote:

Aye: 5 -

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

B. 16-1312

Consideration, discussion, and possible approval and direction by City Council to publish Legal Notice of Annexation for the voluntary annexation of property located at 12830 South 189th East Avenue, Broken Arrow, Oklahoma 74011, containing 27.97 acres and legally described as a tract of land in the South Half of the Southeast Quarter (S/2 SE/4) of Section One (1), Township Seventeen (17) North, Range Fourteen (14) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, more particularly described as:

Commencing at the SE corner of the SE/4 of said Section One; Thence S88°40'43"W along the South Line of the SE/4 of said Section One a distance of 240.00 feet to a Point of Beginning; Thence S88°40'43"W continuing along said South Line a distance of 1215.20 feet; Thence N15°00'00"E a distance of 581.31 feet; Thence N35°13'00"E a distance of 789.80 feet; Thence N01°01'00"E for a distance 134.40 feet to the North Line of the S/2 of the SE/4 of said Section One; Thence N88°41'52"E along the North Line of the S/2 of the SE/4 a distance of 155.95 feet; Thence S01°25'25"E a distance of 331.67 feet; Thence N88°41'35"E a distance of 658.24 feet to the East Line of SE/4 of said Section One; Thence S01°24'02"E along said East Line a distance of 540.86 feet; Thence S88°40'43"W a distance of 240.00 feet; Thence S01°24'02"E a distance of 454.00 feet to the Point of Beginning

Recusing himself, Mayor Thurmond left the room at approximately 6:49 p.m.

City Attorney Beth Anne Wilkening reported that William and Tamara Autry were proposing to annex nearly 27.97 acres at the northeast corner of East 131st Street South and South 193rd East Avenue. She stated that staff had had an opportunity to review the request, finding that it met all the statutory requirements. She and Legal Department staff believed that it was in compliance and would prove of benefit not just to the City of Broken Arrow, but to the property owners also. It was requested that Council approve the Legal Notice of Annexation and publish it by direct publication in a legally qualified newspaper within 14 days.

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

Move to approve the publication of Legal Notice of Annexation in a legally qualified newspaper within 14 days and mail Notice to all property to all property owners within a 300-foot radius

The motion carried by the following vote:

Aye: 4 -
Abstain: 1 -

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

Mayor Thurmond returned to the room at approximately 6:50 p.m.

C. 16-1309

Consideration, discussion, and possible approval of a proposal to create a new Single-family Residential Zoning District, RS-4, Single-family Residential-4, with modifications to Section 2.1, Table 3.1-1, Section 3.2.A.2, Section 3.2.B.1, Section 3.2.B.2, Section 3.2.B.5, Section 3.3.C.2.b, Table 4.1-2, Section 4.1.E, and Section 5.9.J.4 of the Zoning Ordinance; along with modifications to Table 4.1, Section 4.1.2, and Section 4.1.3 of the Comprehensive Plan

Development Services Director Michael Skates stated that they had been working with a development group for about six months on a new Residential Zoning District, RS-4. In reviewing the item, they were aware that developments were currently using RS-3 with a PUD, to reduce upfront setbacks. On occasion, using straight zoning inadvertently brought hardship on the property owner and City by requiring 3,000 square feet of green space be set aside. When the lots were developed, lot owners were at a disadvantage if they wished to build additions, or structures such as a pool or deck, because such additions often impinged upon the green space requirement. With that in mind, staff developed a new district that was about 5 feet narrower than the RS-3. It was a little longer but, in the end, it contained approximately the same buildable area. The proposal had been presented to Planning Commission on three separate occasions as an item for discussion and following the Public Notice period, on September 22nd the Planning Commission approved it at their meeting. It was requested that the new zoning district be approved, as presented in the recommendation.

Councilman Parks commented that he was trying to get a handle on what Mr. Skates said, asking for confirmation that they were going to go with a smaller lot, smaller setbacks, and didn't want to do it through the PUD process because that would require some green area being set aside, or at least there would be a trade-off. Mr. Skates replied that was correct, adding that they wanted to do so also, so as to limit the number to small houses being built, while allowing developers who appeared to be moving forward with subdivisions, the opportunity to create a certain aesthetic look along the street by pulling the houses a little closer. The only way they could achieve that at present was through a PUD, and the new zoning district would provide more flexibility to developers. Councilman Parks observed that it also allowed for more houses per acre on a property, asking Mr. Skates if his observation was correct. Mr. Skates said that yes it did, by a few.

Mayor Thurmond commented that they were starting to see 20-foot setbacks becoming pretty common, reflecting the community's desire to move closer to the street. He went on to say that in the west side of the City there was an RS-4 zoning that was 50-foot wide, where they had eliminated PUDs. He didn't think they wished to go to the point where they eliminated PUDs in the area in question, however, a lot of communities were realizing that the opportunity of having straight zoning by regulation, foregoing PUDs and the burden they placed on staff with all the variations and permutations PUDs allowed, was preferable. The Mayor concluded that he agreed with the establishment of other classifications since it was being driven by the market, according to people's preferences.

Councilman Eudey asked if there was a reason why with a shallower setback, there was narrowing of the property also. Mr. Skates replied that they were looking for something different from RS-3 and decided on something a little bit narrower to reduce the overall yard or

lot area, but keep the buildable area approximately the same. Councilman Lester inquired how many home builders currently involved in projects in Broken Arrow had asked for or shown an interest in the new zoning category. Mayor Thurmond responded that particularly in Tulsa, a lot of the builders were using RS-4, which was a 50-foot, with a 20-foot setback for a wide lot. A common lot at present was the 52-foot wide, in the \$200,000-and-upwards range. The Mayor stated that he had done several projects with 55-foot lots, where the houses were going for close \$300,000, adding that certain products fit on any size lot. Councilman Lester agreed that the market would determine the product. Mr. Skates reiterated that from his vantage point and looking at the trends, the new zoning district would allow an opportunity for developers to create a more pleasing aesthetic on residential streets. Councilman Parks said he preferred PUDs because they provided for more green space, adding uniqueness of character to a property, and he didn't have a problem with smaller houses being built. Having some concerns about the different levels involved, which were new to him, and favoring the PUD process, he felt he needed to give such a major zoning change further thought. There was general agreement that the item should be tabled, pending further study on Council's part.

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

Move to table item C until the next meeting

The motion carried by the following vote:

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

- D. 16-1317 **Consideration, discussion, and possible approval of Resolution No. 948, a Resolution authorizing the City Attorney to enter into the Final Journal Entry of Judgment in the Matter of Richard Arnold Dodson and Robin Elizabeth Dodson, Trustees of the Dodson Revocable Living Trust, dated December 2, 2013 v City of Broken Arrow, et al, filed in Tulsa County, State of Oklahoma, Case No. CV-2016-01362 authorizing foreclosure and vacation of an easement located east and southeast of Block 8, Lot 1 across Indian Springs Golf Course**

Ms. Wilkening related that the two individuals mentioned in the item, who were currently serving as trustees of the Dodson Revocable Living Trust, previously had their representatives approach the Council and City staff in regard to closing a mutual access easement and utility easement. She recalled that it was accomplished by the Council on September 20th through adoption of Ordinance No. 3453. The attached Resolution would authorize Legal staff to agree to a Journal Entry of Judgment in the foreclosure action. Potential issues arising in connection with the easements had been avoided through their relocation. In order to avoid any clouds on the title, it was recommended that Council move forward by approving Resolution No. 948.

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

Move to approve Resolution No. 948 and authorize execution of Journal Entry of Judgment

The motion carried by the following vote:

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

- E. 16-1316 **Consideration, discussion, and possible approval of Resolution No. 949, a Resolution authorizing the City Attorney to enter into the Final Journal Entry of Judgment in the Matter of Thomas Goekeler and Stephanie Goekeler v City of Broken Arrow, et al, filed in Tulsa County, State of Oklahoma, Case No. CV-2016-01369 authorizing foreclosure and vacation of an easement generally located approximately 1/2-mile north of West Florence Street and east of South Mingo Road**

Ms. Wilkening stated that the item reflected a similar situation to the previous item, where an unnecessary utility easement had been made in order to combine Lots 8 and 9, so that a house could be built across from it. She recalled that the City Council previously adopted Ordinance No. 3323, closing the easement. In order to avoid any clouds on the title, it was recommended that Council approve Resolution No. 949, allowing the City to move forward with foreclosure action.

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

Move to approve Resolution No. 949 and authorize execution of Journal Entry of Judgment

The motion carried by the following vote:

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

- F. 16-1338 **Consideration, discussion, and possible approval of Resolution No. 955, a Resolution of the City Council of the City of Broken Arrow expressing concern about the instability and insufficiency of current revenue sources for municipal operational and capital expenditures, expressing support for public education and, specifically, for the Broken Arrow, Union and Bixby Public School Districts that provide education and opportunities to children and residents within its corporate limits and fence line, encouraging the Oklahoma Legislature to explore alternative funding sources for public education and municipal operations**

City Manager Michael Spurgeon said that given the importance of the matter, he wished to read from the fact sheet pertaining to the item. Mr. Spurgeon stated that on November 8th voters in the State of Oklahoma would have the opportunity to vote on State Question No. 779, a proposed

Constitutional Amendment that would raise the State sales tax and use by one cent. Basically, 60% of the revenue generated would go toward providing a salary increase of not less than \$5,000 for public school teachers, with 9.5% of revenues going to public schools, 19.25% to higher education, 3.2% to career and technology education, and 8% to early childhood education. He reported that public schools, institutions of higher education and career and technical education, as well as public early childhood education, were receiving funding at present from the Oklahoma Legislature, ad valorem taxation and other sources. The primary revenue source of Oklahoma municipalities was sales tax and use tax. As they were aware, the City received revenue for utilities based on customer usage. Municipalities did not receive General Operation appropriations from the Oklahoma Legislature, and ad valorem tax was dedicated to municipalities presently only limited for municipal judgments and payment thereof. Mr. Spurgeon noted that State statute did stipulate that cities could be eligible, but the Excise Board made the final determination on whether the City would receive any property taxes ad valorem for operations. He wished to underscore that there was no question that as a state, they had an obligation to take care of their public education system, and he knew that the Mayor and Council members were 110% behind the public education system. They had three outstanding institutions and school districts and the sales tax was crucial to pay for critical City services. He found the situation all the more troubling since his brother was a superintendant of schools and both his children were teachers, educated at Oklahoma universities. He wished to give them and every teacher in the State his full support and he knew that Councilmen Parks and Lester had personal experiences that should be brought to the fore.

Mr. Spurgeon explained that his main concern, should the Resolution be passed, was twofold. Firstly, their sales tax was 8.4% at the present time. Although they did a very good job with the money received from taxpayers and had experienced some growth, raising the sales tax closer to 10% could hamper their ability to go to the voters to ask for consideration of something of a permanent basis or something temporary. He gave the example of an economic development opportunity arising that could create hundreds of jobs and that might need some infrastructure. In the past, the Council asked the voters to consider a bond issue, and they overwhelmingly supported the temporary tax, but the case of a sales tax approaching 10% would present some concern regarding their ability in that regard. Also, down the road, if they needed an increase in the sales tax rate to pay for City services and it got close to 10% people would hesitate and pause. Most importantly, there was the alternative of online shopping on the Internet in which, in many cases, there was no sales tax. Purchases from traditional bricks and mortar stores supported individuals or entities that had made investments in the community, creating jobs and generating revenue for City services. Mr. Spurgeon said that they needed to be vigilant and that was why he was asking for the Council's or the City's position as a governing body, on fully supporting public education. Secondly, he wished them to address his concerns. Thirdly and most importantly, he believed it was a temporary fix, so he hoped to encourage the State Legislature to begin looking at different tax models that could provide the sustainable revenue that both filled the needs of both the school district and City in general. To be able to fund and retain teachers to provide outstanding education would take an ongoing effort on everyone's part. Mr. Spurgeon concluded that should it pass as polling indicated it would, he would certainly encourage all Broken Arrow citizens to shop locally, giving them additional incentive that their tax dollars were helping to fund education.

Councilman Lester commented that he, along with his six brothers, was a proud graduate of Broken Arrow High School. As a Council member with Broken Arrow, Union, and Bixby falling within his zone, he was representing all three school districts. Having spent nearly 30 years within Union School District on a long-range planning committee, being a founding member of the Union Education Foundation and serving as its President, along with serving on the Board of Education for Union School District, he knew the ins and outs of the issues regarding funding of public education. He was also aware of the inadequacy of teacher salaries, his wife having been a teacher for 38 years. On the other side of the coin, being involved in various aspects of the City on the Planning Commission, the Board of Adjustment, and with currently, nearly a decade on the City Council, he understood issues from the City's perspective and was aware how cities lived and died on sales tax. He recalled a recent conversation with Dr. Mendenhall in which he expressed his concerns on the matter and how it might impact municipalities. Through the years, he observed issues that arose with House Bill No. 1017, which was once touted to be the answer or cure-all for public education. The Legislature ended up cutting public funding and school funding to other areas. Then the casino was going to fund public education, and the Legislature again cut education funding to other areas. To his mind, the big issue was with Oklahoma City. He believed they needed to look to Oklahoma City to get some answers and move toward correcting the situation. While he would encourage everyone to get out and vote his conscience, from his perspective as a City Council member, an increase in sales tax was going to be harmful for municipalities.

Councilman Parks said he had a unique perspective, having owned his own business for 30 years and being a teacher for 22 years now, and with two sons and a daughter-in-law who were teachers. He noted that a lot of his teacher colleagues had left the State, so there was no doubt of a serious problem. He did not think what they were considering was going to fix it, though it would help. A \$5,000 raise was tremendous to a teacher, he agreed, but it still wouldn't bring them to where they needed to be. He was not speaking in opposition to the proposal, but he saw it as a permanent tax because once voted in, it would remain in effect until citizens voted it out. He also thought it a temporary fix. He was very much in favor of the Resolution for the reason that it reflected the bottom line: education funding was the concern of the Oklahoma State Legislature, and they had been remiss. As a City Councilman, he looked at Police and

Fire and asked himself where the money for expansion of the two Departments would come from, how many people were going to go out of state to purchase something, and how many would choose to purchase online. The effect could be extremely detrimental to the City. He was not opposed to the \$5,000 raise; he was opposed to the funding mechanism, however. It was a problem that they had seen coming for many years and you couldn't just step in and fund everything at the same time, so it was a predicament. Councilman Parks summarized that he was in favor of the Resolution taking into account the last line, indicating that it was reasonable for the Oklahoma Legislature to explore alternative stable, sustainable, and sufficient funding sources for both education and cities.

Councilman Eudey stated that he too, as a product of public education, was in support of the Resolution. He related that he had studied education as an undergraduate, with the goal of becoming a teacher. He changed his mind when as a student teacher, he realized how hard teachers worked for so little pay. Teachers weren't paid enough and they weren't honored for the extraordinarily difficult job they performed. He agreed that in many respects, the challenge had been in Oklahoma City for the entirety of Oklahoma's statehood, so blame could be heaped on all parties. In his role as a City Councilman, he had a duty and obligation to support a Resolution like the one in question because it was important for citizens to understand the funding mechanisms utilized and their limitations. He didn't wish to see what he believed a temporary fix create a burden that resulted in a permanent challenge to City funding. Councilman Eudey specified that as Councilman Parks had stated, as a Constitutional Amendment it would be permanent unless or until Broken Arrow citizens voted otherwise. He felt he had a duty to support the Resolution because it was necessary for the Legislature to hear that the City was concerned that its funding mechanisms were so limited, that a change in the law, as projected on November 8th, could harm Broken Arrow.

Vice-Mayor Carter commented that his opinion was in line with the others, as a son of two teachers. One of his sons had taught school also, until he couldn't afford to anymore. He knew they had to do something for the school system, for teachers and educators, but in increasing the sales tax they would be hurting one entity to help another. There had to be a way that the Legislature could tackle the problem, though they had not ever done so to his recollection. The Resolution was a call for the Legislature to address the issue and find an answer, and for that reason he supported it.

Mayor Thurmond stated that he agreed with everyone on the Council, adding that his sister was a retired teacher. Prompting the Legislature to do something to meet the education challenges they faced was the right course of action. He observed that the reason why Oklahoma was the sole state where cities operated from sales tax was because the other 49 states had figured out that there was a better and more consistent way to fund city government. Sales tax was a regressive tax that hurt most those who could least afford it. The remedy of an increase in sales tax would be brief and very temporary and although the polls showed support for it, it would create a strain on the City taking into account other priorities. Therefore, it was not a good solution.

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

Move to approve Resolution No. 955

The motion carried by the following vote:

Aye: 5 -

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

10. Preview Ordinances

A. 16-1315

Consideration, discussion, and possible preview of an ordinance amending Chapter 7, Business Regulations and Licenses, Article V. Pawnbrokers, Section 7-89. - Pawnbroker defined, specifically defining terms as used in this Chapter; Section 7-92. - Reserved; specifically adding eligibility requirements to obtain a pawnshop license; amending Section 7-95. - Required information; material, specifically requiring fingerprints of the applicant to be submitted with the license application; Reserving Section 7-103. - Records required; amending Sec. 7-105. - Reports to police, specifically requiring pawnbrokers to report to the police department, within two days, any buy transaction or pawn transaction.; amending Section 7-106. - Inspections, specifically allowing an officer who has probable cause to believe property is stolen or embezzled to place a written hold on such property; amending Section 7-112. - Penalties, specifically defining the punishment for violating Sections regulating Pawnbrokers; adding regulations for Precious Metals and Gems, Section 7-152. - Definitions; Section 7-153. - State license, specifically requiring precious metal and gem dealers to maintain a valid State license; Section 7-154. - Records to be maintained, specifically requiring dealers to keep a record of any transaction involving the purchasing of any used item made or containing precious metals or gems; Section 7-155. - Certain goods to be kept by Dealer: Time and Procedure, specifically allowing an officer who has probable cause to believe property is stolen or embezzled to place a written hold on such property and requiring dealers to keep such metals and gems on hold for a period of ten days; Section 7-157. - Penalty, specifically defining the punishment that may be imposed for violating Sections regulating Precious Metals and Gems; repealing all ordinances to the contrary and declaring an emergency

Ms. Wilkening recalled that the Ordinance was previewed by a month, or so, earlier, but they decided to pull it off at the request of Mr. Daroga, city planner. She then consulted with the Planning Commission to ensure that there would be no problems or difficulties. It was requested that Council preview the Ordinance and set it for adoption at the next meeting.

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

11. Ordinances

A. 16-1307

Consideration, discussion, and possible adoption of Ordinance No. 3456 closing a utility easement on property located on a tract of land lying in Government Lot 3 of Section 2, Township 18 North, Range 14 East, of the Indian Meridian, Tulsa County, Oklahoma, generally located one-quarter mile east of Elm Place and north of Albany Street; repealing all ordinances to the contrary; and declaring an emergency

Ms. Wilkening reported that the Ordinance represented a matter of import for the City, having to do with where the Stoney Creek Hotel and Conference Center was going to be located. She explained that there was originally an easement for a potential water loop that never came to fruition. When they initially drew up the economic development agreement with Stoney Creek and the lease agreement, it was contemplated that after Vision funding was exhausted, it would be necessary for them to obtain a mortgage for the roughly \$23 million project. The title company and the bank making the loan as the City advanced through the process, requested and required that the Ordinance be closed. She informed the Council that the City of Broken Arrow, through the Legal Department, would be asking a District Court to foreclose. They had already received the Radius Report from the title company. The Ordinance was an important step in keeping the project moving forward and it was requested that Council adopt Ordinance No. 3456 and, by separate motion, approve the emergency clause.

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

Move to adopt Ordinance No. 3456

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 Scott Eudey.

Move to approve the emergency clause for Ordinance No. 3456

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

Councilman Eudey stated that he appreciated Representative Brumbaugh's making sure the Legislature understood what they themselves, had known for a long time: they had the greatest staff in the world.

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

Mr. Spurgeon reported that the month before, Chief Boggs went through a promotional process for the Police Department resulting in five individuals being appointed to leadership positions. He wished to publicly congratulate Captain Thomas Cooper, Captain Deidre Hughes, Sergeant Josh Russell, Sergeant Stephen Garrett, and Corporal Daniel Hurst. He congratulated every person who had taken the test, as well. Mr. Spurgeon related that he was able to attend the inspirational, promotion ceremony under the direction of Chief Boggs, among a wonderful gathering of Police officers.

Mr. Spurgeon brought to the Council's attention staff member Paul Bighorse of Michael Skates of Development Services' team, who had secured his Commercial Mechanical Inspector license. He congratulated Mr. Bighorse, commending his pursuit of continuing education in order to better himself and render better service to the City.

Mr. Spurgeon reported that accompanying utility bills would be a letter informing all customers that the City would be moving to Covanta for its waste disposal. It was a great opportunity and he wished to thank General Services Director Lee Zirk and his team for coordinating, together with the Legal Department, to negotiate the contract. Over and above the savings involved, it was a significant step in the effort for more sustainability. The letter would also make citizens aware that the waste-energy facility would not take everything, and that they would have to make arrangements to have some items picked up.

Mr. Spurgeon congratulated Janette McCormick on her appointment as Director of Human Resources, as Russell Gale mentioned at the previous meeting. The City Manager was impressed by Ms. McCormick's performance and how she stepped up once she got out of Mr. Gale's shadow. He was excited about the kind of leadership she would bring to such a key support department.

Referring to the upcoming election on November 8th, Mr. Spurgeon said he could not recall there being so many things on a ballot. He pointed out the importance of getting out to vote.

Mayor Thurmond entertained a motion to recess at approximately 7:37 p.m., in order to enter into the Broken Arrow Municipal Authority and the Broken Arrow Economic Development Authority meetings, prior to the Executive Session.

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 and Broken Arrow Economic Development Authority meetings

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 7:45 p.m. and entertained a motion for a brief recess prior to entering into Executive Session.

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

Move to recess prior to entering into the Executive Session

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 7:49 p.m. and asked for a motion to clear the room and enter into Executive Session.

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

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 for the purpose of discussing litigation involving Elton Fernandes, United States District Court for the Northern District of Oklahoma, Case Number 16-CV-630-CVE-FHM under 25 O.S. §307(B)(4).

At approximately 8:22 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 Richard Carter, seconded by Mike Lester.

Move to authorize the City Attorney's Office to file an answer on behalf of Broken Arrow Police Officers Craig Brown and Mike Jackson

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 authorize the City to continue to research firms to represent the City and the Officers

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 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, Craig Thurmond

15. Adjournment

The meeting adjourned at approximately 8:23 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