



City of Broken Arrow
AMENDED MINUTES
City Council

City Hall
220 S 1st Street
Broken Arrow OK
74012

Mayor Craig Thurmond
Vice-Mayor Scott Eudey
Councilor Mike Lester
Councilor Johnnie Parks
Councilor Debra Wimpee

Tuesday, August 15, 2017	Time 6:30 p.m.	Council Chambers
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1. Call to Order

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

2. Invocation

Pastor Scott Moore delivered the invocation.

3. Roll Call

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

4. Pledge of Allegiance to the Flag

Debra Wimpee led the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

Mayor Craig Thurmond stated he would like to remove Items BB, CC, DD and EE from the Consent Agenda.

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

Move to approve Consent Agenda excluding Items BB, CC, DD and EE.

The motion carried by the following vote:

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

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| A. | 17-2514 | Approval of AMENDED City Council Meeting Minutes of July 18, 2017 |
| B. | 17-1691 | Approval of City Council Meeting Minutes of August 1, 2017 |
| C. | 17-2486 | Acceptance of Planning Commission meeting minutes of May 11, 2017 |
| D. | 17-2487 | Acceptance of Planning Commission meeting minutes of May 25, 2017 |
| E. | 17-2488 | Acceptance of Planning Commission meeting minutes of June 8, 2017 |
| F. | 17-2534 | Approval of Downtown Residential Overlay Study Pay Request Number 7 in the amount of \$7,557.34, for Phase Three and Additional Services, to ADG, PC through the Sales Tax Capital Improvement Program (STCI) in association with the Downtown Residential Overlay District Revitalization Study and authorize payment of \$7,557.34 using Sales Tax Capital Improvement Program Funds |
| G. | 17-2521 | Approval of authorization to execute Resolution No. 1047, a Resolution authorizing the acceptance of a General Warranty Deed, Utility Easement, and Temporary Construction Easement for Parcel 7, which consists of 0.010 acres of permanent right-of-way, 0.018 acres of permanent utility easement, and 0.018 acres of temporary construction easement for 9th Street Widening, Elgin to El Paso, being part of Lot 2, Block 2 of the Lemon Addition, Section 12, Township 18 North, Range 14 East, Tulsa County, from Carol J. Bell and James M. Bell, wife and husband, and authorization of payment in the amount of \$17,900.00 to Carol J. Bell and James M. Bell for 9th Street Widening from Elgin to El Paso Project (Project No. ST1210) |
| H. | 17-2545 | Approval of and authorization to execute Amendment No. 2 to the Agreement for Professional Consulting Services between The City of Broken Arrow and Garver, LLC for the Washington Street Improvements, Garnett Road to Olive Avenue (Project No. ST1616) |
| I. | 17-2463 | Approval of and authorization to execute a Professional Services Agreement between the City of Broken Arrow and Doerner, Saunders, Daniel & Anderson, LLP for providing counsel and legal advice regarding employment and labor issues |
| J. | 17-2464 | Approval of and authorization to execute a Professional Services Agreement between the City of Broken Arrow and Kivell, Rayment & Francis, P.C., for providing counsel and legal advice regarding title opinions and property law |
| K. | 17-2450 | Approval of and authorization to execute a Professional Services Agreement between the City of Broken Arrow and McAfee & Taft, P.C., Attorneys at Law, for providing counsel and legal advice regarding employment and labor issues and sovereignty law |

- L. 17-2520** Approval of and authorization to renew an Enterprise Enrollment Agreement with Microsoft Corporation for Microsoft software, products, and licenses
- M. 17-2516** Approval of and authorization to execute First Amendment to Site Lease Agreement and Memorandum of First Amendment to Site Lease Agreement with New Cingular Wireless, PCS, LLC
- N. 17-2472** Approval of and authorization to execute Amendment No. 1 to a Professional Consultant Agreement with Olsson Associates for Design of an Industrial Collector Street (East Nashville Street) and Water Line Extension (Project No. ED1701)
- O. 17-2544** Approval of and authorization to execute a Professional Consultant Agreement with R.L. Shears Company, P.C., for Detailed Design and Construction Bid Documents of Downtown Main Street Streetscapes, Phase V
- P. 17-2549** Approval of and authorization to execute Oklahoma Department of Transportation (ODOT) Supplemental Engineering Contract #3 - Financing Agreement for Engineering Services Involving 23rd Street Improvements (Kenosha to Houston) STP-172A (457)IG, J/P 26308(05) (Project No. ST0914)
- Q. 17-2476** Approval of the recommended social services awards for Program Year (PY) 2017 Community Development Block Grant (CDBG) Funding and authorization to execute Social Services Contracts
- R. 17-2317** Approval of and authorization to execute a Use Agreement with the Broken Arrow Genealogical Society for Fiscal Year 2017-2018
- S. 17-2501** Waiver of formal competitive bidding, and approval of and authorization to purchase 28 Taser Conducted Electrical Weapons (CEW's), model X2, with accessories from Axon, formally Taser International, a sole source vendor
- T. 17-2537** Approval of and authorization to purchase one (1) three-quarter ton crew cab pickup truck from Bob Howard Dodge as bid, pursuant to the Oklahoma statewide vehicle contract, for the Parks Department
- U. 17-2498** Approval of and authorization to purchase 14 Police SUV Ford Explorer Interceptors from Bob Moore Ford as bid, pursuant to State Contract 1000009398
- V. 17-2495** Approval of and authorization to purchase two (2) half-ton pickup trucks from John Vance Motors as bid, pursuant to the Oklahoma statewide vehicle contract, for the Development Services Department
- W. 17-2536** Approval of and authorization to execute Change Order C01 for 37th Street: Omaha to Albany and Rural Water District #4 Waterline (Project No. ST1507)
- X. 17-2524** Approval of and authorization to execute Change Order C02 for Downtown Main Street Streetscapes Phase IV
- Y. 17-2506** Approval of PUD-94S-1 (Planned Unit Development) and BAZ-1983 (Rezoning), expansion of Jim Norton Chevrolet, 4.55 acres, CG/PUD 94 to CH/PUD 94S-1 and abrogation of PUD 94-O, one-half mile south of Omaha Street, one-quarter mile east of Aspen Avenue
- Z. 17-2507** Approval of SP-282 (Specific Use Permit), Kirkland Activity Complex, 24.10 acres, R-3, west of 9th Street and one-half mile south of Kenosha Street
- AA. 17-2505** Approval of SP-283 (Specific Use Permit), Beehive Homes of Broken Arrow, 2.60 acres, R-2, north of West Washington Street, one-third mile east of South Olive Avenue
- BB. 17-2529** Acceptance of a Drainage Easement from Tucson Commercial, LLC on a portion of unplatted property south of Tucson Street and west of 23rd Street adjacent to Tucson Village subdivision, shown as Exhibit D, located at the southwest corner of Tucson Street and 23rd Street (Section 01, T17N, and R14E)
- CC. 17-2530** Acceptance of a Utility Easement from Tucson Commercial, LLC on a portion of unplatted property south of Tucson Street and west of 23rd Street adjacent to Tucson Village subdivision, shown as Exhibit F, located at the southwest corner of Tucson Street and 23rd Street (Section 01, T17N, R14E)
- DD. 17-2528** Acceptance of a Utility Easement from Tucson Village, LLC on a portion of unplatted property south of Tucson Street and west of 23rd Street adjacent to Tucson Village subdivision, shown as Exhibit B, located at the southwest corner of Tucson Street and 23rd Street (Section 01, T17N, R14E)
- EE. 17-2532** Acceptance of a Utility Easement from Tucson Village, LLC on a portion of unplatted property south of Tucson Street and west of 23rd Street adjacent to Tucson Village subdivision, shown as Exhibit G, located at the southwest corner of Tucson Street and 23rd Street (Section 01, T17N, R14E)
- FF. 16-1577** Approval of the Broken Arrow City Council Claims List for August 15, 2017

6. Consideration of Items Removed from Consent Agenda

Mayor Thurmond left the room at approximately 6:32 p.m.

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

Move to approve Items BB, CC, DD and EE

The motion carried by the following vote:

Aye: 4 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey
Recused: 1 - Craig Thurmond

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

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

A. 17-2558 Presentation of the tourism and marketing video promoting Broken Arrow

City Manager Michael Spurgeon stated he was proud to announce the first of three marketing videos promoting tourism in Broken Arrow. He reported the remaining videos would be completed at the end of September. He stated last year City Council authorized the commission of a tourism asset inventory which was completed earlier this year and results presented to the City Council and CVB. He explained Berkeley Young Strategies recommended the City develop an aggressive marketing strategy for the City website and social media platforms and develop traditional marketing partnerships with both the Region and State Tourism entities, as well as with local properties, hotels and motels, within the City of Broken Arrow. He reported in Oklahoma the tourism industry generated nearly 640 million dollars per year; it was the third largest industry within the State behind Oil and Gas, and Agriculture. He explained tourism was a powerful economic driver and Broken Arrow needed to be positioned to earn a larger piece of the proverbial pie to assist local hotels, motels, businesses, shops, and restaurants. He stated the City currently had 942 hotel rooms and there would be approximately 1,156 rooms once the Conference Center and the Hilton Garden Inn opened in a few months. He explained the video was an important component of the marketing strategy which provided a tangible product which could be shared with potential visitors, convention groups, etc., displaying what Broken Arrow had to offer. Mr. Spurgeon asked Communications Director Krista Flasch to come forward and talk about the making of the video.

Communications Director Krista Flasch stated the Communications Department chose a local production company able to capture the spirit of Broken Arrow, Retrospect Films. She stated she, Lori Hill, and Mary McAtee visited Retrospect Films to preview the first video, the Youth Sports video, the goal of which was to encourage other youth sports teams to play and stay in Broken Arrow. She explained the second video focused on recruiting new residents; Broken Arrow wanted visitors to feel welcomed upon arrival and leave with the desire to make Broken Arrow home. She stated the third video was considered the general tourism video and was designed to be shown at conferences, when traveling to other cities, etc., to promote and market Broken Arrow. She reported the second two videos were still in production and were expected to be completed by the end of the month. She indicated her pleasure with the youth sports video and played the video for the Council. She asked if the Council had any questions.

Ms. Flasch stated the video would be shared with as many partner organizations as possible; it would be posted on the City website, Facebook, YouTube and other social media channels. She stated she would be working closely with the State Tourism Office and the Green Country Marketing Association to ensure the video was seen in various cities in the region by as many viewers as possible. Councilor Debra Wimpee asked if the video could be placed on local hotel websites. Ms. Flasch responded she would be in communication with the hotels to determine if this was a possibility. Mayor Thurmond stated he felt the video was a good start and he looked forward to the two upcoming videos.

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

No citizens requested to speak.

9. General Council Business

A. 17-2542 Consideration, discussion, and possible recommendation to the Broken Arrow Economic Development Corporation to issue a Request for Proposal for an Economic Development Feasibility Study for the New Orleans and Elm Place corridor

Economic Development Coordinator Norm Stephens stated yesterday Applebee's on the corner of New Orleans and Elm Place closed on behalf of Applebee's nationwide closing of between 105 and 155 stores. He stated several businesses had closed along this same corridor over the past several years; therefore, he, the City Manager, and Wes Smithwick had been discussing this area for the past year in an effort to identify the issues associated with the corridor, to prevent other businesses from relocating away, to determine what was best for the corridor, and to bring a level of vibrancy to it. He asked Mr. Wes Smithwick to come forward.

Chamber of Commerce President Wes Smithwick stated when he became President of the Chamber of Commerce Mike Lester was actively involved in the Chamber's Retail Committee which in 2010 attempted to discover how to encourage residents to shop in the New Orleans/Elm Place Corridor. He mentioned this to show it was not a new problem; it had been an issue long before 2010. He explained 15 years ago K-Mart closed in this location, followed by the Albertson's closing and Ace Hardware closing. He reported Pottery Barn opened in the

K-Mart location, was only open for a few years and then closed; most recently Hobby Lobby relocated, and Applebee's closed in this location. He stated there would probably be more businesses closing in the area. He explained the store closings were due to store-specific reasons, particularly Albertson's and Applebee's which closed due to nationwide cut backs; however, all businesses closed due to lack of revenue or due to failure to maximize the internal rate of return required by shareholders or corporate goals. He reported traffic counts remained strong at around 20,000 cars per day through this intersection and retail nodes continued to relocate around Broken Arrow and southeast Tulsa. He stated this was not an unusual happening as locations which were once strong and vibrant could become stagnant. He stated 15 years ago 61st and Memorial was a booming center with fancy restaurants, sports complexes, and high end retail; however, within a few years it "died on the vine." He explained this happened due to the normal cycling of retail. He stated today's retail reality was not pretty, big box shopping was on the decline, shopping patterns continued to change, and the next big change was predicted in grocery business. He explained this meant traditional retail recruitment would not work for New Orleans and Elm; buildings would need investment and repurpose. He suggested Broken Arrow needed help in creation of a strategy to breathe new life into this important retail cluster in south Broken Arrow; the corner would have to transform into something new to succeed. He said he and the City Manager together decided engagement of a consultant was the optimal choice to help this happen in the quickest manner possible. He stated he felt if the corridor was allowed to redevelop organically it would take many years while deterioration of the shopping centers on that corner would continue.

Mr. Spurgeon stated he believed it was the government's responsibility to invest in the community and help create an environment which promoted private sector growth. He stated he felt the City had a responsibility to its citizens to acquire professional assistance to better determine what could be done. He said the intention was to ask the owners of the shopping centers to cost participate with the study. He intimated he felt it would be a wise investment for the City with or without the cost assistance of the shopping center owners. He explained whatever recommendations were made it would take a partnership of the private and public sector together to ensure successful implementation of goals. He stated the first step was for the Council to decide to spend \$100,000 (or less) via County Vision Funds; this was the funding source, the expenditure would not come out of the City's capital budget. He stated if there was cost participation the expense could be less. He intimated no conversations had been held with the EDC as he wanted to discuss this first with the City Council. He stated if the Council approved this, he would meet with the EDC, put together the specifications of what the City was seeking, and move forward. He reported the process should not take more than a year depending on the consultants. He stated recommendations made by the consultants would be presented to the City Council and to the EDC. He reported the New Orleans and Elm Street corridor might qualify as a type of TIFF district; the TIFF statutes were created to aid areas in need of redevelopment.

Vice Mayor Eudey stated he drove by that particular intersection daily and was not surprised when he saw the lights at Applebee's were out last night following the announcement by Applebee's that it would be closing over 100 stores nationwide. He said he was deeply saddened as he felt it was quite a special place which was not living up to its full potential. He agreed with Mr. Spurgeon that steps needed to be taken to aid redevelopment of the corner because, if left alone, the transition would not be pretty and would take a lot longer to transform into something positive. He stated that he lived a mile from the corner and had a vested interest in seeing it successful. He stated he felt steps needed to be taken to guide the development and an investment needed to be made by the City.

Councilor Mike Lester stated a considerable amount of time had been spent in 2010 attempting to discover ways to revitalize this location. He stated he felt since the City spent money on the north side of the City, citizens expected money to be spent on the south side of the City as well; citizens expected the City to assist in revitalization and to bring new opportunities to south Broken Arrow. He said this was just the beginning of a revitalization effort and he looked forward to watching it grow.

Councilor Johnnie Parks stated that he remembered more than 15 years ago watching downtown Broken Arrow dying, and it had been determined that downtown Broken Arrow would become the future center of the City of Broken Arrow. He stated after seeing the efforts of the City and the Chamber in the downtown area, he felt there must be money available somewhere such as the TIFF Funds which had revitalized the downtown area beyond belief. He stated he believed with the combined efforts of the City and the Chamber rejuvenation of the New Orleans and Elm area could be something to make the south side of Broken Arrow stronger and richer. He declared he was in favor of the proposed improvement effort.

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

Move to direct the Broken Arrow Economic Development Corporation to issue a Request for Proposal for an Economic Development Feasibility Study for the New Orleans and Elm Place corridor

The motion carried by the following vote:

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

- B. 17-2561 Consideration, discussion, and possible approval of and authorization to execute a Consent Order on Case Number 17-161 from the Oklahoma Department of Environmental Quality (ODEQ), Water Quality Division**
City Attorney Beth Anne Childs stated thanks to Assistant City Manager Kenny Schwab and Anthony Daniel a project was completed which met the ODEQ requirements. She reported she met with an attorney from ODEQ was optimistic that the Notice of a Violation would be withdrawn as would the prepared consent order. She stated she and Mr. Schwab placed this on the agenda as it was the only opportunity Council would have to entertain it in the event that ODEQ decided to not withdraw the NOV and Legal had to move forward; however, the ODEQ gave her verbal authorization for an extension. She stated she spoke with Mr. Daniel earlier and would provide the needed documentation to him first thing in the morning and hopefully the Council would not see it again. She requested it be tabled in the interim.
- MOTION: A motion was made by Scott Eudey, seconded by Johnnie Parks.
Move to table this matter until up for reconsideration
The motion carried by the following vote:
Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond
- C. 17-2547 Consideration, discussion, and possible approval of an application to the Tulsa County Vision Authority for Vision 2025 Surplus Funds to construct one block of streetscapes on Main Street from Detroit Street north to Elgin Street**
Assistant City Manager Russell Gale stated he was seeking the City Council's approval to submit an application to the Vision Authority for \$1.5 million dollars of Vision 2025 Surplus Funds to pay for the design and to construct one block of streetscapes on Main Street from Detroit Street north to Elgin Street. Streetscapes V funding would come from Proposition No. 4 and the construction would be concurrent with the construction of the Milestone Capital Development Project. The improvements would be similar or identical to what was designed previously on Main Street. He reported it was anticipated the project would take one year to complete and staff recommended approval of the application.
- Councilor Lester asked if the project would begin after the project on Main was completed or during construction. Mr. Gale stated construction would be simultaneous. Mr. Spurgeon stated this would require coordination between the City and the Main Street project.
- MOTION: A motion was made by Johnnie Parks, seconded by Debra Wimpee.
Move to approve the submission of the Vision 2025 application
The motion carried by the following vote:
Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond
- D. 17-2546 Consideration, discussion, and possible approval of an Amended Application # 2 to the Tulsa County Vision Authority for Vision 2025 Surplus Funds**
Mr. Gale stated the Streetscapes IV had been completed and the initial application had been submitted to construct the interactive water feature and add additional funding for streetscapes improvements. He stated the amended application had been submitted in August of 2016, and it had been determined that an additional \$409,380 was needed to cover project overrun and work order changes related to the Streetscapes IV. He reported under the Consent Agenda the Council had approved the change order for the project and as a result the project would be completed with Vision Surplus Funds and a \$1.3 million dollar bond which was approved in the 2014 Capital Improvements Election.
- MOTION: A motion was made by Mike Lester, seconded by Johnnie Parks.
Move to approve the submission of the Vision 2025 amended application # 2
The motion carried by the following vote:
Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond
- E. 17-2444 Consideration, discussion, and possible approval of the Memorial Park Conceptual Plan**
Parks and Recreation Director Scott Esmond reported Councilor Lester spearheaded an effort to raise money for the acquisition of real property located at 709 Magnolia Court which was transferred to the City of Broken Arrow and the Deed accepted at the July 3, 2017 Council Meeting. He stated it was known on July 22, 2015 tragic events unfolded at this location. He stated a Memorial Park was proposed to be developed to assist First Responders in healing from the horrific crimes witnessed at this location. He declared development of the Memorial Park would improve the property for public enjoyment and help neighbors to move beyond the memories associated with the property. He stated the renderings of the Memorial Park Conceptual Plan was prepared by Alaback Design Associates and was proposed to include a gazebo, Monarch butterfly gardens and other pollinator plants, evergreens, flowering trees, sidewalks and security lighting. He stated staff requested approval of the Memorial Park Conceptual Plan enabling preparation of construction plans and specifications. He stated \$140,000 was budgeted to assist with construction of the park in the FY 2018 Part Capital Fund; however, thanks to Councilor Lester there were many volunteers to assist in park construction. He stated part of the contract would include coordination of the volunteers to

enable the construction to go smoothly. He stated the plans and specifications would be set, but would not go to bid, and Alaback Design would be involved throughout the process. He stated the Alaback Design contract had been negotiated and if the Conceptual Plan was approved he was prepared to enter into said contract for the construction plans. He reported Alaback Design had agreed to donate 20% of its fee toward the project.

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

Move to approve the Memorial Park Conceptual Plan

The motion carried by the following vote:

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

F. 17-2526 Consideration, discussion, and possible approval of and authorization to execute an Engagement Letter with Crawford & Associates, P.C. to conduct a “Best Practices” review of the City of Broken Arrow’s Finance Department

Acting Finance Director Tom Cook stated with the change in the leadership in the Finance Department the City Manager had concluded a Best Practice Review was a prudent action for the management team. He stated this was a common practice during change of leadership, especially when there had been long term leadership previously. He reported the City Manager’s Best Practice Review objectives included identification of potential issues in the manner City business was transacted prior to development, determination of effectiveness of the City’s internal control policies and procedures, identification of specific operation policies and procedures which contributed to improvement of local government financial management, and review of the current organizational structure, with recommendations across the board. He stated Frank Crawford with Crawford CPA was in attendance and desired to explain the process further.

Mr. Frank Crawford stated Crawford and Associates CPA firm had a history with Broken Arrow and had assisted Finance in various endeavors, especially as related to audits and financial statements, throughout the 90s into the mid-2000s. He explained Crawford and Associates had been less involved over the last 10 years as the Finance Department became independent. He stated with the recent change in Broken Arrow’s Finance Department Crawford and Associates had been asked to return to assist with preparation of the annual statements for audit, and to review processes and compare with standard processes nationally and internationally. He explained Crawford and Associates dealt with many different governments worldwide where US accounting rules were followed; therefore, Crawford and Associates had the ability to bring a unique perspective to the table. He explained Best Practice Review determined what the City currently practiced, what others practiced, what processes worked best and made recommendations accordingly. He explained Best Practice Review examined anything that touched finance, if there was cash involved, utilities involved, court involved, any finance process at all, including organization, would be reviewed. He declared the best time to do this review was within the next several months as Crawford and Associates was currently in place working with the financial statement preparation. He stated the engagement letter was broadly termed to allow Crawford and Associates access to all areas within the Finance Department. He asked if there were any questions.

Vice Mayor Eudey asked how long Mr. Crawford anticipated the review process to take. Mr. Crawford responded the process would take a couple months. Crawford and Associates would conduct a series of interviews, would create flow charts to display the different processes in finance, and a report would be written which included recommendations. He stated he could not give a specific time for the conclusions report presentation; however, he knew the process would take approximately two months to be completed correctly.

Mr. Spurgeon stated he planned to recruit a new Finance Director by the end of the year; therefore, his goal was to have the recommendations before the end of the year to better aid the Finance Department and incoming Finance Director. He stated an audit was completed yearly, but this was another opportunity to take a look at Best Practices and would be extremely helpful, especially with all the changes and new employees within the Finance Department.

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

Move to approve and authorize the City Manager to execute an Engagement Letter with Crawford & Associates, P.C. to conduct a “Best Practices” review of the City of Broken Arrow’s Finance Department

The motion carried by the following vote:

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

G. 17-2284 Consideration, discussion, and possible approval of and authorization to execute a Master Lease Agreement between New Cingular Wireless PCS, LLC d/b/a AT&T Mobility and the City of Broken Arrow, Oklahoma, regarding the placement of communication facilities on City properties and utility poles

Ms. Beth Anne Childs asked the City Council to take action on the above agreement. She stated the attachment was reflective of the actual agreement. She explained the agreement enabled AT&T to utilize City facilities, specifically light poles and traffic control poles for small cell facilities. She stated in order to utilize the small cell technology AT&T required

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

- J. 17-2543 **Consideration, discussion, and possible approval of Resolution No. 1048, a Resolution authorizing the City Attorney to enter into a Final Journal Entry of Judgment without admitting liability in the Matter of the Application of Aspen Corner, LLC, for a Decree Vacating a portion of the plat of Southtowne Estates, an addition to the City of Broken Arrow, State of Oklahoma, Tulsa County District Court Case No. CV-2017-00864, authorizing the vacation of recorded plat number 5599, Lot 1, Block 8, in Southtowne Estates, an addition to the City of Broken Arrow, Tulsa County, State of Oklahoma**
Ms. Childs stated this was unusual as vacation actions on plats were not typical; however, staff had worked diligently to ensure this was in compliance with Oklahoma State Statutes. She explained the resolution would initially eliminate the utility easements; however, there were other access points to utilities in the area and staff was comfortable these access points would sufficiently address the particular needs of Southtowne Estates. She stated this would enable Legal to permanently foreclose the plat and would create a clean record with land records. She requested approval of Resolution No. 1048 and authorization of its execution.

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

Move to approve Resolution No. 1048 and authorize its execution

The motion carried by the following vote:

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

- K. 17-2559 **Consideration, discussion, and possible approval of Resolution No. 1049, a Resolution Authorizing the City Attorney to Deposit \$9,000.00 with the Wagoner County Court Clerk in the Matter of H&G Paving Contractors, Inc., vs Ballard TP Construction, LLC., in District Court in and for Wagoner County, State of Oklahoma Case No. CS-2017-465**
Ms. Childs stated this was also unusual. She explained there was a dispute with regard to payment. She reported Chief Deputy Trevor Dennis worked with Engineering and Construction and the Finance Department to uncover a resolution. She stated there was \$9,000 which, it was believed, may or may not be an issue and Legal recommended Council allow the deposit of the disputed amount into court. She stated in this particular case Legal felt it was an opportunity to “be Switzerland,” deposit the money and forget it; this would allow the court to move forward with it. She thanked Engineering and Construction for its willingness to handle this issue in this manner as it kept the money from causing problems in the Finance Department. She requested the Council approve Resolution No. 1049 and authorize its execution.

Vice Mayor Eudey concurred this was an elegant solution which allowed Broken Arrow to remove itself from between the two fighting parties.

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

Move to approve Resolution No. 1049 and authorize its execution

The motion carried by the following vote:

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

- L. 17-2541 **Consideration, discussion, and possible appointment of a member of City Council to the Broken Arrow Downtown Advisory Board**
Mr. Norm Stephens stated Ordinance 2-230 provided for one Broken Arrow City Council Member to be appointed as a member of the Downtown Advisory Board for a term of four years. He stated the appointment would fill a position which was currently filled by Vice Mayor Eudey, would be an appointment by the Mayor, and would expire October 1, 2021.

Mayor Thurmond stated he recommended Councilor Johnnie Parks.

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

Move to appoint Johnnie Parks to the Broken Arrow Downtown Advisory Board

The motion carried by the following vote:

Aye: 4 - Debra Wimpee, Mike Lester, Scott Eudey, Craig Thurmond

Abstain: 1 - Johnnie Parks

- M. 17-2560 **Consideration, discussion, and possible approval of request by representatives of Keep Broken Arrow Beautiful to identify Broken Arrow as the “City Where Roses Bloom”**
Executive Assistant to the City Manager Jennifer Hooks stated this was a follow-up request from the March 7th Meeting when representatives of Keep Broken Arrow Beautiful requested approval from City Council to approve a phrase to identify Broken Arrow as the City of Roses. She stated staff did research on this particular phrase and later recommended an alternate phrase, which was chosen. She reported Keep Broken Arrow Beautiful requested approval of the new phrase to identify Broken Arrow as the “City Where Roses Bloom.”

Ms. Childs stated a relationship had been maintained with the trademark firm who handled the City of Broken Arrow. She thanked said trademark firm and stated it was very quick and efficient in its response verifying the phrase was available.

Dr. Clarence Oliver stated 62 years ago when he moved his family to Broken Arrow, increasing the population from 3,000 to 3,004, he fell in love with the community of Broken Arrow. He stated as he drove around Broken Arrow he found a sign which said “Welcome to Broken Arrow, City of Roses and Sparkling Spring Water.” He commented the sign was located near Veteran’s Park. He reported he learned the history of this logo when he became friends with a gentleman who had just finished writing the history of the naming and development of Broken Arrow. He stated he embraced the history of Broken Arrow and since then he had been calling Broken Arrow the City of Roses and Sparkling Spring Water because up until about that time the “Beautiful Waters” springs, as the Indians called it, was the water source for Broken Arrow; therefore, it was appropriate to call Broken Arrow the City of Roses and Sparkling Spring Water. He stated the theme had been adopted in the early 1920s and remained, though not in an official capacity, and no one had taken the time to investigate such things as trademarking. He stated later in the years various committees began wondering how to promote Broken Arrow and what theme might be used in its promotion. He stated he was aware the Nation had a motto founded in history and felt Broken Arrow should retain a sense of history as well. He stated when the Centennial Planning Committee was working during the two years prior to Broken Arrow celebrating its 100th year, the idea of returning to and promoting the “City of Roses and Sparkling Spring Water” and the possibility of bottling water from the two springs which were open to the public for marketing and selling had even been considered. He stated the Health Department did not think this was a good idea and there were a number of other issues, so the matter was dropped. He explained the interest in this led to the formation of the Bring Back the Roses Committee which has had some influence in encouraging this history of roses and had some degree of influence in the naming of the Rose District. He stated in the search for a logo it was discovered the “City of Roses” had been claimed legally by another city; therefore, it was essential that a new logo be proposed. He stated any logo should meet the 3 M’s test; it should be Meaningful, Memorable, and Measurable. He stated the proposal before the Council met this test; it held a true meaning of what Broken Arrow valued and emphasized, it was short and could be easily memorized, and was measurable in that if roses bloomed in Broken Arrow the logo’s mission was accomplished. He supported the proposal and encouraged a favorable consideration.

Ms. Beverly Forester stated she had been working for seven years with the Bring Back the Roses Movement to bring Broken Arrow back to the “City of Roses,” only to find out that Portland Oregon was legal owner of the “City of Roses” logo. She stated “Where Roses Bloom” was chosen because it was so visual. She intimated she felt “Where Roses Bloom” brought to mind growth, rosebushes, flowers with fragrance, and beauty which was what Broken Arrow represented. She stated the Bring Back the Roses Committee believed “Where Roses Bloom” was an accurate reflection of Broken Arrow and showed the world the excitement, growth, and beauty of the City. She stated she hoped the Council would approve the use of “Where Roses Bloom” as the City’s tag line.

Mr. Brandon Murphy stated he was the Managing Partner of Nelson Nissan in Broken Arrow, Nelson Mazda in Tulsa, and now in Norman. He stated what he experienced as a part of the Roses project in Broken Arrow, which included the Rose Garden in the Rose District in honor of the Nelson family, was it had evolved into a lot of interest outside of the initial project movement. He stated having some identification when doing business in Broken Arrow brought a level of focus which business owners in the City needed. He stated he was pleased Broken Arrow worked with Retrospect Films, as he worked with Retrospect Films annually and felt Retrospect Films did a wonderful job telling stories. He believed this logo did just that, it told a story. He stated when you had a unique value proposition it separated you from the crowd which was something he understood well-being in a very competitive business. He stated he tagged his business with “We Will Make a Believer Out of You” years ago which stuck and as such added value. He explained this was the value of having a logo; it represented what Broken Arrow was evolving into, which was a beautiful community. He stated he felt from a business perspective it brought a level of recognition. He reported his company had begun tagging things with “in Broken Arrow” and to have one extra tag as a business owner, he felt, separated his business from Tulsa or Sand Springs or Owasso or any other community. He stated he felt it was a little edge which helped in branding Broken Arrow and businesses within Broken Arrow.

Vice Mayor Eudey stated he had an opportunity to sit in on a Bring Back the Roses Committee Meeting some months ago and the goal was to find another way to capitalize on what had been done with roses within the Community. He stated the concept was procurement of an identifier which tied in with current City projects and values, was one the City encouraged use of, and adopted as another phrase to be added to the marketing regimen. He stated he supported it, especially with the wonderful development of the Rose District tying so much of what Broken Arrow did to roses, and especially after Dr. Oliver’s history lesson. He indicated this was another addition to the marketing tool kit and would be of benefit to Broken Arrow as a whole.

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

Move to accept the Committee’s recommendation to identify Broken Arrow as the “City Where Roses Bloom.”

The motion carried by the following vote:

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

10. Preview Ordinances

There were no preview ordinances.

11. Ordinances

- A. 17-2513 **Consideration, discussion, and possible adoption of Ordinance No. 3497, an ordinance closing a utility easement on property located in the Northeast Quarter (NE/4) of Section Twenty Two (22), Township Eighteen (18), North Range Fourteen (14) East, Arrow Park Addition Amended, a subdivision in the City of Broken Arrow, Tulsa County, State of Oklahoma, generally located south and west of the southwest corner of Washington Street and Elm Place; repealing all ordinances to the contrary; and declaring an emergency**

Ms. Childs stated this Ordinance had been before the Council four separate times. She stated it was important to change the ordinance number as it had been adopted as corrected. She requested the Council adopt Ordinance No. 3497 and by separate motion approve the emergency clause.

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

Move to adopt Ordinance No. 3497

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 Johnnie Parks, seconded by Scott Eudey.

Move to approve the emergency clause

The motion carried by the following vote:

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

12. Remarks and Inquiries by Governing Body Members

Mayor Thurmond asked if there were any remarks or inquiries. There were none.

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

Mr. Spurgeon stated Tuesday, August 22, 2017 the City Council would hold a special meeting regarding economic development opportunities in south Broken Arrow. He stated press releases would be issued, and various media outlets would promote attendance. He stated the Council had invited the EDC and several EDC members would attend. He reported the meeting format would be opening remarks and introductions followed by a series of presentations: a presentation by Kenny Schwab about the infrastructure and improvements made in the last few years in preparation of development, a brief PowerPoint presentation by Development Services Director Michael Skates discussing what developments had been approved for the residential and southwest part of Broken Arrow, Norm Stephens and Wes Smithwick would discuss the economic recruitment effort, and the Developer of the Shops at Aspen Creek would address the development and effort to bring businesses to the development. He stated the meeting would be taped and televised. He said there would be a full house next Tuesday night to educate residents regarding the Council's accomplishments. He reported traffic counts, investments in the north part of Broken Arrow, and investments made to promote development would be discussed.

Mr. Spurgeon stated Cox, in partnership with Broken Arrow, had offered to host a free concert on September 22, similar to the community concert offered last year. He reported he had checked the high school football schedule, there would be no home game conflict, and he felt turn out would be great. He stated the tickets were free and could be obtained at the local Cox offices in Tulsa and Broken Arrow; ticket holders were requested to bring a donation to the event which would go to Broken Arrow Neighbors.

Mr. Spurgeon reported during the September 5th meeting a contract with a public relations firm to begin the process of conducting 2018 General Bond Obligation Project surveys would be available for review. He stated over the next three to four months the Community would be engaged to determine what type of Quality of Life Projects, Transportation Projects, Stormwater Projects, Parks and Recreation Projects, and City Facilities Projects the Community had an interest in. He stated sometime in January a pared down list of proposed projects would be presented to the Council, Council would choose the projects to be pursued, and public education would follow. He stated he believed the question would become how large of a package the Council wanted to submit before the voters, as the possibly proposed projects required large budgets. He stated voters wanted to see road widening (between \$3 and \$5 million dollars), park improvements (between \$50,000 and \$500,000), field turfing (around \$600,000), etc., and the Council would need to pare the requests into a workable package over the next 5 to 10 years. He intimated he felt it was an exciting time, and wanted to be sure the voters understood that voter input would drive the 2018 General Bond Obligation Package. Also, in the event the Council is approached, he wanted to make them aware of a meeting he had with the Senior Council regarding being included in the bond proposition, he tasked them to come up with recommendations within the next 30 days, but did not commit to it making the final cut as it was the City Councils decision.

Mr. Spurgeon thanked the Council Members who attended the Purple Hearts Ceremony hosted

one week ago. He stated he was proud Broken Arrow was now a Purple Heart City. He mentioned Mayor Thurmond had discussed the possibility of painting the Purple Heart on parking spaces and this would be researched. He said about 225 residents attended, Dr. Oliver did a wonderful job as MC, and it was a very moving ceremony. He thanked the Council for their support.

Mr. Spurgeon stated he applied for an opportunity to participate in the Bloomberg Philanthropies, which was a foundation through Michael Bloomberg which allowed cities to receive grant funding to assist with addressing an idea, situation, opportunity or problem within the community. He stated Broken Arrow was selected as one of 35 cities nationally which made the first round cut and a facilitator would arrive Thursday for an 8 hour work session. He stated two potential opportunities were identified, work force development, and travel and tourism expansion. He explained the two areas would be thoroughly evaluated, strategies would be developed and an application would be drafted which he hoped would be worthy of grant funding; however, if not, it would certainly be a bench mark for future use.

At approximately 7:47 p.m., Mayor Thurmond entertained a motion to recess in order to enter into the Broken Arrow Municipal Authority and Broken Arrow Economic Development Authority meetings.

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

Move to recess in order to enter into the Broken Arrow Municipal Authority and Broken Arrow Economic Development Authority meeting

The motion carried by the following vote:

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

At approximately 7:52 p.m., Mayor Thurmond reconvened the meeting and entertained a motion for a brief recess before entering into the Executive Session.

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

Move to recess before entering into 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 8:49 p.m. Mayor Thurmond entertained a motion to enter into Executive Session.

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

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, the City Attorney and any other pertinent staff members discussing and conferring on matters pertaining to:

1. litigation, including potential resolution, of a matter involving the City of Broken Arrow vs. Carl Chasteen and Naomi Chasteen, Case No. CJ-2017-2040, in the District Court of Tulsa County, State of Oklahoma, and taking appropriate action in open session, including possible authorization to settle this litigation, under 25 O.S. §307(B)(4); and

2. litigation, including potential resolution, of a matter involving the Frank Charon vs. City of Broken Arrow, Case No. CJ-2016-834, in the District Court of Tulsa County, State of Oklahoma, and taking appropriate action in open session, including possible authorization to settle this litigation, under 25 O.S. §307(B)(4); and

3. litigation, including potential resolution, of a matter involving the City of Broken Arrow vs. Contech, Inc, Heartstone of Oklahoma, LLC, Employers Mutual Casualty Company and Bituminous Insurance Co. a/k/a BITCO Insurance Companies, Case No. CJ-2017-295, in the District Court of Tulsa County, State of Oklahoma, and taking appropriate action in open session, including possible authorization to settle this litigation, under 25 O.S. §307(B)(4); and

4. potential litigation, including potential resolution, of a matter involving a tort claim filed by Rusty Teague, No. TRT 463.2017, involving a sewer back up at 2324 West Boston Street, Broken Arrow, Tulsa County, Oklahoma and taking appropriate action in open session, including possible authorization to settle this tort claim, under 25 O.S. § 307(B)(4); and

5. potential litigation, threat of litigation and claims, involving purchase and termination of a purchase order for Self-Contained Breathing Apparatus and pertinent accessories/equipment regarding Casco Industries, Inc. and MSA Fire, and taking appropriate action in open session, under 25 O.S. §307(B)(4); and

6. Bruce R. Wallace v. City of Broken Arrow, Workers' Compensation Court Case Number CM2016-08160F, to include offers of settlement and taking appropriate action in open session, including authority to settle this matter, under 25 O.S. §307(B)(4);

In the opinion of the City Attorney, the Council is advised that the Executive Session is necessary to process the pending claims, litigation and possible litigation in the public interest. After the conclusion of the confidential portion of executive session, the Council will reconvene in open meeting, and the final decision, if any, will be put to a vote.

At approximately 8:31 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 that the executive session was necessary to process the pending claims, litigation and potential litigation 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 settle the Chasteen litigation for the commissioner's award of \$19,500, plus construction of a hammerhead driveway

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 reject the plaintiff's offer to settle Charon litigation

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 deny the tort claim filed by Rusty and Rachel Teague

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 manager to meet with representatives of Casco and MSA Fire in an attempt to resolve the claims and avoid litigation

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's outside counsel to settle the worker's compensation claims filed by Bruce Wallace consistent with Council direction

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 8:33 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:

Mayor

City Clerk