



City of Broken Arrow

Minutes City Council

City Hall
220 S 1st Street
Broken Arrow OK
74012

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

Tuesday, November 7, 2017

Time 6:30 p.m.

Council Chambers

1. Call to Order

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

2. Invocation

Pastor Andrew Conley delivered the invocation.

3. Roll Call

Present: 4 - Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

Absent: 1 - Debra Wimpee

4. Pledge of Allegiance to the Flag

Mayor Thurmond led the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

Mayor Thurmond stated he noted citizens had requested to speak regarding General Council Business Item F; however, Item F was to be tabled until the City Council Meeting on 11/21/2017. Mayor Thurmond stated Consent Agenda Item C and O should be tabled and indicated he had a conflict with Item O. He asked if any other Consent Agenda Items needed to be tabled. There were none.

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

Move to approve Consent Agenda excluding Item C and O

The motion carried by the following vote:

Aye: 4 - Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

- A. 17-1707 **Approval of City Council Meeting Minutes of October 17, 2017**
- B. 17-2827 **Approval of and authorization to execute Budget Amendment Number 1 for Fiscal Year 2018**
- C. 17-2828 **Approval of and authorization to execute Budget Amendment Number 2 for Fiscal Year 2018**
- D. 17-2829 **Approval of and authorization to execute Resolution No. 1063, a Resolution confirming the supplementation and publication of the City of Broken Arrow's Code of Ordinances**
- E. 17-2840 **Approval of and authorization to execute the Office of Attorney General 2017 Safe Oklahoma Grant Program Contract for Fiscal year 2017-2018**
- F. 17-2817 **Approval of and authorization to allow a Fire Department employee apply to and participate on the Oklahoma Taskforce 1 - Urban Search and Rescue Team**
- G. 17-2820 **Approval to declare certain City owned vehicles and equipment as surplus and authorize the sale of those items by public auction**
- H. 17-2847 **Approval of and authorization to execute a renewal of the Pharmacy Benefit Management Services Agreement with Navitus Health Solutions, LLC to continue to provide pharmacy benefit manager services for the employee health plan**
- I. 17-2826 **Approval of and authorization to execute a services contract between the City of Broken Arrow and Stoney Creek Hospitality Corporation to assist with the marketing and promotion of the Broken Arrow Conference Center**
- J. 17-2854 **Approval of and authorization to execute a Parks and Recreation Use Agreement between the City of Broken Arrow and the Broken Arrow Amateur Basketball Association**
- K. 17-2798 **Approval of and authorization to purchase Cisco Wireless Access Points and Licensing from Chickasaw Telecom pursuant to the Oklahoma state contract**

- L. 17-2816 Award the most advantageous bid to Defenders Supply for the purchase of police vehicle lighting equipment
- M. 17-2821 Award the most advantageous bid to Lenco Armored Vehicles for purchase of the Lenco Bearcat Armored Rescue Vehicle for the Police Department
- N. 17-2848 Approval of and authorization to execute Change Order C01 for Construction Contract Number ST1708/176032, 4th Street Sidewalk, Detroit to Midway and East Kenosha Street Multipurpose Trail
- O. 17-2799 Approval of BAZ-1987 (rezoning), The Villas at Turnberry, 5.46 acres, CG to RS-4, south and west of the southwest corner of Dearborn Street and 37th Street
- P. 17-2846 Approval of BAZ 1988 (rezoning), Legacy Futsal, 2.41 acres, A-1 to CG, one-quarter mile north of Houston Street and one-quarter mile east of 23rd Street, south of the Broken Arrow Expressway
- Q. 17-2851 Approval of PT12-111B, Conditional Final Plat, Starbucks at Aspen Creek, 1 lot, 1.42 acres, A-1 to PUD 220/CH, one-third mile east of Aspen Avenue, north of Tucson Street
- R. 17-2841 Acceptance of a Utility Easement from Tahoe Properties, LLC, on property located one-half mile south of Omaha Street, one-quarter mile east of Aspen Avenue, Tulsa County, State of Oklahoma, (Section 34, T19N, R14E)
- S. 16-1593 Approval of the Broken Arrow City Council Claims List for November 07, 2017

6. Consideration of Items Removed from Consent Agenda

- C. 17-2828 Approval of and authorization to execute Budget Amendment Number 2 for Fiscal Year 2018

City Manager Michael Spurgeon stated Item C was a budget amendment from the Tourism Board which requested the use of \$65,000 for additional grants. He stated when the Tourism Assessment was done it was recommended to reduce the amount of funds allocated for grants and focus more on marketing and promotions of hoteliers. He recommended Item C be tabled until the Convention and Visitors Bureau (CVB) identified how the funds were to be utilized, whether by hotels, events and/or economic development.

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

Move to table Item C

The motion carried by the following vote:

Aye: 4 - Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

Mayor Thurmond left the room at approximately 6:34 p.m.

- O. 17-2799 Approval of BAZ-1987 (rezoning), The Villas at Turnberry, 5.46 acres, CG to RS-4, south and west of the southwest corner of Dearborn Street and 37th Street

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

Move to approve Item O

The motion carried by the following vote:

Aye: 3 - Johnnie Parks, Mike Lester, Scott Eudey

Recused: 1 - Craig Thurmond

Mayor Thurmond returned to the room at approximately 6:34 p.m.

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

- A. 17-2855 Presentation of Financial Results for the three months ending September 30, 2017 for the General Fund, Police Sales Tax Fund, Fire Sales Tax Fund, Sales Tax Capital Improvements Fund and the Broken Arrow Municipal Authority

Acting Finance Director Tom Cook directed Council's attention to the financial results information packets. He reported General Fund revenues for the three months ending September 30, 2017 exceeded the budgetary amount by almost \$500,000 and current expenditures were below the budgetary amount by \$250,000. He reported this resulted in net revenue over expenditure of approximately \$1.1 million dollars. He stated sales tax was down \$91,000 and this was reflected in the sales tax column; however, other taxes were up \$440,000. He stated personal services and salaries were below budget of \$81,000 and benefits were below budget of \$126,000. He reported operating expenditures were \$41,000 below budget. He stated the Emergency Reserve Fund balance, at the 6 month average, was \$6.6 million which was 114% of the required amount and actual fund balance as of September 30 was \$8.2 million. He asked if Council had questions regarding the Income Statement and the Revenue Summary. The Council had none.

Mr. Cook directed the Council's attention to the overview of the Police Sales Tax Fund. He

reported current revenues slightly exceeded the budgeted amount and current expenditures were \$300,000 below budget which resulted in revenues over expenditures of approximately \$865,000. He reported sales tax was slightly below projected and transfers were equal. He stated the primary source of funding for the Police Sales Tax Fund was the voter approved Vision Renewal 0.15% sales tax, as well as a transfer of approximately 37% of General Fund revenue. He reported Personal Services and Salaries were \$41,000 below budget, and Benefits \$110,000 below budget. He explained this did not include the agreement with Fraternal Order of Police (FOP) which was retroactive back to the first of the year, but the agreement would be reflected in the 6 months ending December 31, 2017. He reported Operating Expenditures were \$164,000 below budget. He stated an income statement accompanied the report for review. He asked if there were any questions. There were none.

Mr. Cook reported Fire Sales Tax Fund revenues were below expectations. He explained the intergovernmental revenue was related to the Safer Grant and the Staffing Grant for 21 fire personnel and was distributed semi-annually; therefore, in December 2017 the numbers would improve. He reported expenditures were \$120,000 below budget and the result was revenues over expenditures by \$587,000. He stated Fire was funded by the 0.15% sales tax, as well as a transfer of General Fund revenues equaling approximately 32%. He reported salaries and benefits were under budget; salaries by \$58,000 and benefits by \$16,000. He reported an agreement had not yet been made with the International Association of Fire Fighters (IAFF). He reported operating expenditures were approximately \$40,000 below budget. He stated an income statement accompanied the report for review. He asked if there were questions. There were none.

Mr. Cook reported the Sales Tax Capital Improvements (STCI) Annual Budget was \$7.2 million in sales tax, and \$2.5 million had been received. He reported \$6.9 million in capital projects had been budgeted, and \$1 million had been expended; Debt Services was budgeted at \$1.85 million, and nothing had been expended yet; however, Debt Services payments were scheduled in November and May. He asked if there were questions. There were none.

Mr. Cook reported Broken Arrow Municipal Authority (BAMA) showed revenues under budget by approximately \$340,000 and expenditures over budget by approximately \$225,000 for current expenditures and revenues. He reported Capital Outlay and Debt Service were below budget; however, debt payments came later in the year and Capital Outlay projects were in progress. He reported primary operating revenues were all below budget ranging from 96.8% of expected, up to 99% of expected. He stated Personal Services in BAMA were below budget by approximately \$229,000. He stated other operating expenditures were over budget by approximately \$450,000. He explained operating expenditures were over budget as a result of water purchase from the City of Tulsa and a large operating contract at the water plant for sludge removal, both of which occurred during the first quarter of the year. He reported an increase in the Fund Balance for BAMA of about \$277,000 for the year had been budgeted; therefore, ending fund balance was expected to be approximately \$1.4 million; however the emergency reserve fund balance should be approximately \$6 million dollars and BAMA was an area where rate increases were expected. Finance Department was aware of this and attempted to compensate and improve BAMA's financial position. He stated an income statement accompanied the report for review. He asked if there were questions. There were none.

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

Mayor Thurmond stated two Citizens had signed up to speak; the first was Karyn Lee Maio.

Citizen Karyn Maio stated she wished to re-introduce City Council to the Broken Arrow Community Playhouse. She reported the Playhouse was in its 38th year, working towards 40 years in season 2019-2020. She stated a major fund raising campaign had been embarked upon to raise funds for renovations. She reported the Playhouse was located in a City building at 1800 South Main Street, adjacent to the Senior Center. She stated the Playhouse was attempting to build, and hopefully draw more customers and monies to the City of Broken Arrow through the presentations of the Broken Arrow Community Playhouse. She thanked the Council for allowing her to speak.

Mayor Thurmond thanked Ms. Maio and invited Harold Price to speak.

Citizen Harold Price stated his address was 11951 South Highway 51. He explained he had owned this property for many years with the intention to retire upon it, which he had now done at age 76. He stated the property was located next door to the La Faver Fiberglass Shop (at 11955). He stated he was in contention with Mr. La Faver regarding the fumes emitted by the fiberglass shop, as well as other issues. He explained fiberglass materials blew across his lawn and the odors were intolerable. He stated he had health concerns regarding the fumes and airborne materials. He reported he went in search of aid and Mr. Schwab came to his assistance. He stated he thought his property was zoned A1; however, Mr. Schwab showed him a letter dated 1996 when the zoning was changed to Light Industrial. He explained he looked up Light Industrial zoning and discovered it read: "District is intended to provide for the light

manufacturing, processing, service, storage, wholesale and distribution operations, with all operations contained within an enclosed building. The intent is to preserve the land for the light industrial and service oriented commercial uses.” Mr. Price explained everything was to be contained within the building; however, the Fiberglass Shop had a large smokestack which constantly emitted fumes, and the shop doors were always opened which allowed fumes and loose materials to blow into his yard. He reported the shop had a compressor house, located less than 30 feet from his bedroom, which ran constantly. He explained he approached Mr. Skates 3 years ago with this problem and was informed nothing could be done; therefore, he obtained a lawyer and filed suit against Mr. La Faver and his fiberglass company. He explained the Wagoner County Judge had not made a ruling yet, and it had been 3 months. He stated Mr. La Faver had been abusing the zoning ordinances of the City for 21 years. He stated Code Enforcement did not want to shut La Faver Fiberglass down. He indicated that he understood part of Code Enforcement’s position; however he felt Code Enforcement must understand his. He stated there was a fiduciary duty here, a duty of trust. He stated residents trusted the City to engage in proper activity; therefore, residents engaged in property activity, and the City and residents had a shared interest in the community, in creating a great community, and in his case, a Christian community. He stated the Christian community in Broken Arrow was the reason he had moved to the area. He stated he had felt Broken Arrow was a trustworthy community, but over the last 3 years he had found a double standard within Broken Arrow. He stated he felt the City of Broken Arrow would always support the business owner over the home owner; standards and rights were not equal. He stated if he was required to follow the rules and codes, everyone should be required to follow the rules and codes.

Mayor Thurmond stated no action could be made by City Council regarding issues presented during Citizens’ Opportunity to Address the Council. Mr. Price stated he understood this, but wanted the situation brought to the Council’s attention. He reported Mac’s Aluminum was located in the same area, and managed to keep everything contained within the building and to follow all codes, while La Faver Fiberglass broke code. He thanked the Council for allowing him to speak.

9. General Council Business

A. 17-2845 Consideration, discussion, and possible approval of the nomination and appointment of Mayor Craig Thurmond to the Broken Arrow Convention and Visitors’ Bureau (CVB) Board for a term expiring September 30, 2019

Economic Development Coordinator Norm Stephens stated in accordance with section 2-211 of the Broken Arrow Convention and Visitors’ Bureau Ordinance, Mayor Craig Thurmond recommended his appointment to the CVB Board. He stated if appointed to the CVB Mayor Thurmond’s term would begin October 1, 2017 and would expire September 30, 2019. He stated the Strategic Plan on the Tourism Asset Inventory set forth recommendations to restructure the CVB Board to include members from lodging, dining, retail, sports attractions, and City Council. He stated he would be happy to answer questions.

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

Move to approve the nomination appointment of Mayor Craig Thurmond to the Broken Arrow CVB

The motion carried by the following vote:

Aye: 3 - Johnnie Parks, Mike Lester, Scott Eudey
Abstain: 1 - Craig Thurmond

B. 17-2866 Review and authorization of publishing Request For Proposals (RFP’s), to create an Innovation District Plan and authorize staff to proceed with the process of retaining a consulting firm

Special Projects Coordinator Farhad Daroga stated to assist in preparation of the Innovation District Plan he requested Council consider the proposal to go forward with a Request for Proposal (RFP) for a consulting firm. He stated the City of Broken Arrow, in partnership with the Chamber, the Economic Development Corporation (EDC) and the Educational Institutions, looked toward preparing a plan for the Innovation District. He reported the plan was to promote job retention, growth in vital industrial areas, and education. He stated a Letter of Interest (LOI) had been released and approximately 38 responses were received from companies that would be interested if the RFP was authorized. He stated thus he requested City Council review the enclosed RFP and grant permission to proceed. He stated the project would be funded through the Sales Tax Capital Improvements fund (STCI). He explained this was a step toward establishing the planned District. He asked if there were questions.

Vice Mayor Eudey stated he received an email from a concerned Citizen who had seen this item on the survey and wondered how this Innovation District would impact the community. Mayor Thurmond stated the concept of a Technology Park Innovation District was first proposed three years ago and since had been developed. He stated the survey question asked if the voters approved the development of infrastructure for an Innovation District. He explained the item on the Agenda tonight was different; it was related to the Innovation District Plan which had been partially funded in the budget approved earlier this year. He stated there was a lot of support for the Innovation District; the Chamber, the EDC and the school districts had been working on this for three years. He explained the question on the survey regarded infrastructure funding, while

the item on the Agenda regarded a request for a proposal to create a Plan, two separate issues. He asked the City Manager for his opinion.

City Manager Michael Spurgeon stated he agreed with Mayor Thurmond. He stated the concept was born three years ago. He stated Council discussed this last spring and the idea had been approved under the indication that Broken Arrow desired to promote quality employment and quality housing. He explained quality employment drove Broken Arrow's economy and the purpose of the Innovation District was to implement something unique to provide high-tech type jobs through partnership with Broken Arrow Public Schools, Tulsa Tech, and others, as well as a number of private entities that expressed interest in partnering with Broken Arrow to develop the concept and to develop the property near Northeastern State University (NSU) into a high-tech corridor to support current business, such as the aerospace industry, Flight Safety L1, and many others, with the purpose to create something unique enough to attract new business and industry to the community of Broken Arrow. He explained Mr. Daroga was simply requesting permission to move forward with the RFP, and after the survey was completed the results would be reviewed and the community would be educated regarding the Innovation District and the potential for higher paying local jobs. Vice Mayor Eudey thanked Mayor Thurmond and City Manager Spurgeon for the answers provided; he always wished to address the requested of concerned citizens. He stated he supported the Innovation District concept, felt it was a cutting edge development for Broken Arrow and was supported by the citizenry. He stated City Council understood the importance of being on the cutting edge of technology as it developed, and desired Broken Arrow to be a leader in technological development.

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

Move to authorize Staff to proceed with Request for Proposals (RFP's) process for creation of the Innovation District Plan

The motion carried by the following vote:

Aye: 4 - Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

C. 17-2856 Consideration, discussion, and possible approval to grant waivers for properties owned by Troy and Angel Kraus located within the SteepleChase Farms subdivision and David Lewis and Rebecca Rodriguez within the Glen Eagles subdivision regarding the Assessment District initiated in 2007

City Attorney Beth Anne Childs reported she and the City Manager had a meeting several months ago regarding citizens who had requested waivers regarding the Assessment District initiated in 2007. She stated Mr. Spurgeon felt that as the improvements were a benefit which came with the land it was important to handle all requests equitably. She reported Mr. Spurgeon notified the residents the assessments were in fact due; however, the residents were given the right to appeal to City Council. She stated the Council had granted waivers in the past. She explained two residences were involved currently; the first, the Kraus family, was unique in that the closing company had not made a request to the City of Broken Arrow as the other closing companies had; however, a search of Wagoner County records had been performed and nothing indicated the assessment was due. She stated the Kraus family had taken possession of the property after the assessment had taken effect. She reported the next family was David Lewis and Rebecca Rodriguez. She explained the Lewis/Rodriguez family acquired the property after the original assessment process, conducted a search with the City of Broken Arrow, the closing company paid \$25 to the City and was informed by city officials no liens or assessments were on the property. She stated both families requested waivers by the Council.

Mayor Thurmond stated Mr. Troy Kraus completed the request form indicating he did not wish to speak, but wanted to be on record in support of the waiver. He stated Ms. Rebecca Rodriguez supported the waiver and requested to speak.

Citizen Rebecca Rodriguez stated her address was 20203 East 37th Street South in the Glen Eagles Addition. She stated she purchased her home in 2014, unaware of the assessment, and hoped City Council would waive the fees associated with the assessment.

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

Move to grant a waiver to Troy and Angela Kraus for the fees imposed on the assessment

The motion carried by the following vote:

Aye: 4 - Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

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

Move to grant a waiver to David Lewis and Rebecca Rodriguez for the fees imposed on the assessment

The motion carried by the following vote:

Aye: 4 - Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

D. 17-2858 Consideration, discussion, and possible approval to a grant waiver for property owned by Yeshi and Selemona Reshedo located within the SteepleChase Farms subdivision regarding the Assessment District initiated in 2007

City Attorney Beth Ann Childs stated this was a slightly different situation than the previous. She explained when the assessment letters were sent earlier this year a hardship waiver had been

requested by the Reshedo family. She stated the Reshedo family had owned the property throughout the duration of the assessment; however, Mr. Reshedo was in school and requested a waiver for hardship reasons. She stated the payment process was spread out over 10 years and Mr. Reshedo owned the property since the inception. Mayor Thurmond asked if Mr. Reshedo had paid any fees. Ms. Childs replied he had paid no fees that she was aware of. Vice Mayor Eudey asked if he had owned the property since the inception of the assessment. Ms. Childs responded in the affirmative; it was her understanding there had been no lack of notice. Council Member Lester stated he felt this was indeed a different situation from the waivers previously granted as the Reshedo family had owned the home since the inception of the assessment and was aware of fees due. He stated he would move to deny the request for the waiver on the assessment district. Vice Mayor Eudey stated he agreed; he felt this was a different situation.

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

Move to deny the request for waiver on the assessment district

The motion carried by the following vote:

Aye: 4 - Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

E. 17-2843 Consideration, discussion, and possible approval of and authorization to execute an Engagement Letter with the law firm of Hawkins, Delafield, and Wood, LLP, to function as special counsel in connection with certain federal securities law matters relating to the City's disclosure practices in connection with the City's issuance and administration of general obligation bonds issued by the City

City Attorney Beth Ann Childs stated since her tenure as City Attorney with the City of Broken Arrow many changes with regard to the involvement of the Security and Exchange Commission (SEC) and Municipal Bonds had been seen, related to the economy and in part to financial decisions made by certain governing bodies. She stated the SEC, through the Municipal Security Rule Making Board, decided to take a more active enforcement effort with regard to municipal securities. She stated over the last few years several significant enforcement actions against cities, as well as financial leaders in various cities, were implemented. She reported last year when Council went forward with issuance of the General Obligations Bond, Municipal Financial Services, Inc. (MFS), the City's Financial Advisor, recommended hiring disclosure council. She stated local bond attorney John Wideman had walked staff through the questionnaire required by the Rule Making Board, and did a fine job; however, Hawkins, Delafield, and Wood, LLP was the leading firm in the US with regard to securities law and with regard to bonded indebtedness. She stated, thanks to the efforts of Don Kiser, the City's long time bond attorney, who had a preexisting relationship with Hawkins, Delafield, and Wood, she was able to convince Hawkins, Delafield, to agree to undertake the City of Broken Arrow in representation. She reported that she attached the resumes of the three attorneys who would be working with City Staff and Bond Council on this. She explained, while expensive, Hawkins, Delafield, and Wood, LLP was a nationwide firm with substantial expertise in disclosure matters. She stated she, the Assistant City Manager, the City Manager, and the Acting Finance Director, in cooperation with Bond Council and MFS believed it would be advantageous to City Council to engage Hawkins, Delafield, and Wood, LLP for this task. She stated a few minor revisions had been made to the engagement letter. She stated the costs of the representation would be covered through the issuance and would be counted as issuance cost. She stated she requested City Council approve the Engagement Letter with Hawkins, Delafield, and Wood, LLP. She asked if Mr. Spurgeon had anything to add. Mr. Spurgeon stated he requested approval.

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

Move to approve the Engagement Letter with Hawkins, Delafield, and Wood, LLP, and authorize its execution

The motion carried by the following vote:

Aye: 4 - Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

F. 17-2800 Consideration, discussion, and possible action regarding PUD 266 (Planned Unit Development) and BAZ-1986 (rezoning), Centennial Crossing, 19.64 acres, A-1 to PUD 266/RM, east of North Elm Avenue, one-quarter mile south of Omaha Street
Mayor Thurmond stated this item was tabled.

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

Move to table Item F until the Council Meeting on 11/21/2017

The motion carried by the following vote:

Aye: 4 - Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

G. 17-2853 Consideration, discussion, and possible approval of deferment of Excess Capacity Sewer Fee for the Tee Town Golf Ranch Plat, 28.1104 acres, A-1, east of 37th Street, one-third mile south of Kenosha Street

Plan Development Manager Larry Curtis stated Article 7 of the City of Broken Arrow Code of Ordinances indicated a "developer or a builder shall pay an amount set forth in the manual of fees at time of platting." He stated land that was within the 100 year flood plain, land that was not developable, or land that was developed as a golf course, was exempt from this fee. He reported on July 1, 2002 City Council approved a request from Tee Town Golf Ranch for a refund of an excess sewer capacity fee. He stated the approval deferred the payment of the fee until

such time as the property had changed hands or was developed for different use. He stated on October 17, 2017 City Council approved a request for a specific use permit, SP-285, for a place of assembly for the Ridge at Broken Arrow located on the site of the former Tee Town Golf Ranch. He stated the Ridge would utilize the existing buildings on the site, would use the site for outdoor recreation, and there was an existing septic system on site. He stated consistent with the previously approved specific use permits, SP-285 was conditionally approved for a period of 2 years with an expiration date of October 17, 2019. He stated, furthermore, the conditions of the approval required the applicant to provide approval of specific use permit should the applicant desire to develop new facilities on the site. He stated on October 12, 2017 the Planning Commission approved a lot split for Tee Town Golf Ranch Plat. He explained, once recorded, the lot split would result in three parcels and owners of each tract of plat would be responsible for one third of the fee at such time that the development occurred for each lot. He stated staff recommended City Council defer payment of the excess sewer capacity fee for Tee Town Golf Ranch Plat until such time that new development occurred on the property. He asked if there were any questions. Council Member Parks asked if the plat would have three different owners. Mr. Curtis responded in the affirmative. Council Member Parks asked if the City would know when each lot was developed and if the owners would then pay the fees. Mr. Curtis stated when each lot was recorded, it would be flagged in the system and when development was proposed the City would impose the associated fee.

Vice-Mayor Eudey left the room at approximately 7:12 p.m.

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

Move to defer payment of the Excess Capacity Sewer Fee for the Tee Town Golf Ranch Plat, until such time as new development occurs on the property

The motion carried by the following vote:

Aye: 3 - Johnnie Parks, Mike Lester, Craig Thurmond
Recused: 1 - Scott Eudey

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

- H. 17-2794** **Consideration, discussion, and possible approval of and authorization to execute Resolution No. 1062, a Resolution requesting assistance from the Oklahoma Department of Transportation in regard to constructing an industrial road to serve the Alfa Laval facility** Engineering and Construction Director Alex Mills reported on August 1, 2017 the City entered an Economic Development Agreement with Alfa Laval to help facilitate expansion of the facility. He stated in support of this Agreement the City agreed to build an additional road down the right of way established for Nashville Street, as well as extend a 12 inch water line down the roadway. He explained because of the economic benefit this provided to the area and the State of Oklahoma, the State agreed to support this with funding. He stated the Resolution before the City Council was to present a formal application to the State of Oklahoma for the funds to help support construction. He stated he would be happy to answer questions. There were no questions.

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

Move to approve Resolution No. 1062 and authorize its execution

The motion carried by the following vote:

Aye: 4 - Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

- I. 17-2865** **Consideration, discussion, and possible approval of and authorization to execute Resolution No. 1066, a resolution authorizing the City Attorney to enter into a final Journal Entry of Judgment in the matter of City of Broken Arrow v REIP, LLC; Gordon-Williams Development, Inc.; Transok Pipe Line Company; Sunoco Mid-Con (IN) LLC; Sunoco Partners Real Estate Acquisition, LLC; Board of County Commissioners of Tulsa County; and Dennis Semler, County Treasurer, Treasurer of Tulsa County, Oklahoma Tulsa County District Court Case CJ-2017-01169, authorizing damages in the amount of \$155,000.00 and conveyance of approximately 0.067 acres of land generally located to the south and west of the southernmost dam and presently used as a pond; declaring the 0.067 acres of land generally located to the north of Broken Arrow Expressway west of North Juniper Place and West Concord Street adjacent to Battle Creek Golf Course surplus and authorizing conveyance of the land to REIP, LLC pursuant to a Quit Claim Deed and the Court's order; approving and authorizing the execution of certain documents necessary to accomplish the declaration of surplus and transfer of title; and containing other provisions relating thereto** City Attorney Beth Ann Childs stated this was a condemnation action authorized by the City of Broken Arrow approximately 1 year ago which allowed staff to acquire a very necessary drainage channel. She stated prior to condemnation, the City Officials and Engineering and Construction obtained an appraisal and attempted negotiation with the landowners for the purchase of the land, and when negotiations were unsuccessful the Board of County Commissioners necessarily moved forward with a condemnation action. She explained the Commissioners came back with a fairly substantial award of \$110,000 for the area seized. She explained it was the position of the landowners that the open drainage channel (as it could not be piped) essentially bifurcated the property and would increase cost of development due to necessary bridge development. She stated the Commissioners considered this during appraisal. She mentioned there was an error in the Resolution; it should read 0.67 acres, not 0.067 acres. She stated REIP, LLC, contacted her and

requested she communicate offers which provided for payment of \$155,000 and conveyance of the pond (or dam) located to the south of the spillway. She explained the pond area was not valued by the City and would facilitate future development on this tract; therefore, she recommended the Council, pursuant to this Resolution, declare this particular parcel surplus and return it back to REIP. She reported this area had originally been donated free of charge to the Broken Arrow Golf Authority, a Public Trust which was eventually dissolved through the statutory process, and from a legal perspective there were no issues associated with allowing REIP to own the area. She reported any construction would be within City Standards. She stated there was a sub street at this location and REIP requested permission to tie into the sub street. She stated this would also hopefully draw additional development to the City of Broken Arrow which benefited Broken Arrow via sales tax, etc. She stated she would be happy to answer questions and requested approval of Resolution No. 1066 and authorization of its execution.

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

Move to approve Resolution No. 1066 and authorize its execution

The motion carried by the following vote:

Aye: 4 - Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

10. Preview Ordinances

- A. 17-2811** **Consideration, discussion, and possible preview of an ordinance amending Chapter 15, Article I, in General, Section 15-1. - Nuisance code, Article II, Property Maintenance Code, Section 15-44. - Adopted, Sec. 15-45. - Amendments, specifically amending to adopt the 2015 International Property Maintenance Code, of the Broken Arrow Code; repealing all ordinances to the contrary, and declaring an emergency**

City Attorney Beth Ann Childs stated the Amendment provided for adoption of the 2015 International Property Maintenance Code. She explained periodically Development Services requested revisions to bring Broken Arrow into compliance with recognized standards. She requested Council preview the ordinance and set it for adoption at the next City Council Meeting.

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

Move to preview the ordinance and set it for adoption

The motion carried by the following vote:

Aye: 4 - Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

11. Ordinances

- A. 17-2808** **Consideration, discussion, and possible adoption of Ordinance No. 3500, an ordinance closing all utility easements on property located in Part of Lot Two (2), Block One (1), Tiger Plaza, a subdivision in the City of Broken Arrow, Wagoner County, State of Oklahoma, generally located north of Kenosha and east of 23rd Street; repealing all ordinances to the contrary; and declaring an emergency (QuikTrip #33)**

City Attorney Beth Ann Childs stated although the Ordinances No. 3500 and No. 3501 needed to be adopted separately, both pertained to the previously previewed QuikTrip. She explained QuikTrip wanted to raze the property, combine parcels and start over in terms of platting. She stated in order to do this the utility easements had to be closed. She requested City Council adopt the ordinances and approve the emergency clauses.

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

Move to adopt Ordinance No. 3500

The motion carried by the following vote:

Aye: 4 - 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: 4 - Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

- B. 17-2809** **Consideration, discussion, and possible adoption of Ordinance No. 3501, an ordinance closing utility easements on property located in Part of Lot One (1), Block One (1), Wagoner County Line Plaza, a subdivision in the City of Broken Arrow, Wagoner County, State of Oklahoma, generally located north of Kenosha and east of 23rd Street; repealing all ordinances to the contrary; and declaring an emergency (QuikTrip #33)**

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

Move to adopt Ordinance No. 3501

The motion carried by the following vote:

Aye: 4 - Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

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

Move to approve the emergency clause

The motion carried by the following vote:

Aye: 4 - Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

- C. 17-2810 **Consideration, discussion, and possible adoption of Ordinance No. 3502, an ordinance closing a utility easement on property located in the Northeast Quarter (NE/4) of Section Thirty Four (34), Township Nineteen (19) North, Range Fourteen (14) East, Wakefield Heights at Battle Creek, a subdivision in the City of Broken Arrow, Tulsa County, State of Oklahoma, generally located south of Omaha Street and one-half mile west of Elm Place; repealing all ordinances to the contrary; and declaring an emergency (Yancy Thompson)**

City Attorney Beth Ann Childs stated this Ordinance pertained to closure of a 14.5 foot portion of a 17.5 foot utility easement for pool construction. She stated all utilities and staff were in support. She requested Council adopt the Ordinance and approve the emergency clause.

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

Move to adopt Ordinance No. 3502

The motion carried by the following vote:

Aye: 4 - Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

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

Move to approve the emergency clause

The motion carried by the following vote:

Aye: 4 - Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

12. Remarks and Inquiries by Governing Body Members

Mayor Thurmond stated he had nothing to add and asked if there were any remarks or inquiries.

Council Member Parks stated last week he and Police Chief Berryhill attended the Board of Education and Janet Dunlop's Fall Board Showcase. He stated he understood scheduling was a problem for many Council Members; however, he wanted to make it known that City Council and the City Manager worked closely with the Board of Education. He reported Superintendent Dunlop offered to schedule another showcase at any time City Council wished to attend. He stated he made a trip to Sequoyah Middle School, Broken Arrow High School, met with two Youth City Council Members and was able to see the new multi-handicapped playground equipment. He stated he had asked about Hillside Drive and the Board boasted about Mr. Kenny Schwab and how he helped develop the elementary school, the location of the future middle school, and the location of Hillside Drive. He stated he was pleased to see the cooperative efforts of all involved and he enjoyed the day. He stated he felt it would be beneficial to schedule a showcase with Dr. Dunlop at a time when City Council could attend.

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

City Manager Michael Spurgeon stated in regard to Mr. Harold Price he would speak with Mr. Schwab as soon as possible and discover what progress had been made, and he would visit with Mr. Skates and inform Council of his findings. He stated at the last City Council Meeting three residents spoke before the Council, two with concerns related to businesses in the downtown area and the third regarded a policing matter. He reported staff had contacted the two downtown businesses and relayed the concerns the City had regarding approvals and being in compliance. He stated complete cooperation was received from the businesses. He explained one business was required to secure certain approvals, and if the approvals were not secured then the appropriate actions would be taken to ensure compliance. He stated with regard to the policing matter, Chief Berryhill spoke with the resident who had spoken at the meeting, informed the resident the situation would be monitored, and if there was an issue it would be dealt with appropriately. He indicated that he was pleased with how the situation was being handled by police. He stated another matter brought before Council was the crosswalk issue. He stated he believed staff had developed a temporary solution to present to the school district, temporary meaning approximately 18 months. He explained plans and specifications would need to be developed, finalized, put out for bid, and work completed, along with appropriating funds to provide for a crossing guard. He stated he would update the residents who had attended the previous meeting concerning this issue as soon as the plan was approved. He reported last week he, along with 8 or 9 city officials, went to Washington DC, and met with 5 of the 6 State Representatives. He reported he and the officials were also afforded the opportunity to meet with all State Representatives, Senators and Congressmen each for 30 minutes. He stated three of the elected officials met with him and the city officials with updates on Homeland Security, North Korea, proposed tax amendments, and answered any and all questions. He stated he asked for support of the Tiger Grant which the Engineering Department submitted on behalf of the city for County Line Road from 61st to 71st. He reported this had been submitted last year and had not received approval. He stated he met with Indian Nations Council of Governments (INCOG) who assisted by providing suggestions, and he believed Broken Arrow would receive letters of support from Senator Inhofe, as well as Congressman Mullin, who even though he did not represent Broken Arrow, was very supportive as he owned a business in Broken Arrow. He stated he was also going to ask Senator Lankford for a letter. He explained this would possibly bring in several million dollars to fund this project. He stated he felt it was very important for Broken Arrow city officials to make a yearly trip to Washington DC for the purposes of forwarding the interests of Broken Arrow. He thanked those who made the trip with him and stated he felt it was an extremely beneficial trip.

Mayor Thurmond stated he agreed, and was pleased Broken Arrow would receive letters from both Senators and Congressman Mullin.

Mayor Thurmond stated there would be an Executive Session and called for a brief recess to enter into the Broken Arrow Municipal Authority and Broken Arrow Economic Development Authority meeting at approximately 7:31 p.m.

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

Move for brief recess to enter into Broken Arrow Municipal Authority and the Broken Arrow Economic Development Authority

The motion carried by the following vote:

Aye: 4 - Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

At approximately 8:41 p.m. Mayor Thurmond called for a motion to go into Executive Session.

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

Move to enter into the Executive Session

The motion carried by the following vote:

Aye: 4 - 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 matter of Juan Rodriguez v. City of Broken Arrow, Case No. CJ 2017 978, 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 matter of Saleem Boon v. City of Broken Arrow, Case No. CJ 2017 3816, 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 matter of Roger & Geanie Tilley v. City of Broken Arrow, Case No. CJ 2011 266, in the District Court of Wagoner 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. discussing the purchase and appraisal of real property located at the Southwest corner of the intersection of South 23rd Street and East 115th Street South, and taking appropriate action in open session, including making an offer of purchase, under 25 O.S. §307(B)(3);

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 and the purchase and appraisal of real property in accordance with State Statute. 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 8:54 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 litigation in the public interest

The motion carried by the following vote:

Aye: 4 - 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 participate in mediation in the case of Rodriguez versus the City of Broken Arrow and to attempt to resolve it in accordance with the direction given by Council

The motion carried by the following vote:

Aye: 4 - Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

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

Move to reject the offer of settlement in Tilley versus the City of Broken Arrow and to authorize the City Attorney to proceed to trial

The motion carried by the following vote:

Aye: 4 - 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 actively defend the case of Saleem Boom versus the City of Broken Arrow

The motion carried by the following vote:
Aye: 4 - Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

MOTION: A motion was made by Mike Lester, seconded by Johnnie Parks.
Move to direct the City Manager to continue negotiations for the acquisition of the southwest corner of South 23rd and East 115th Street per Council direction

The motion carried by the following vote:
Aye: 3 - Johnnie Parks, Mike Lester, Craig Thurmond
Abstain: 1 - Scott Eudey

15. Adjournment

The meeting adjourned at approximately 8:57 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: 4 - Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

Attest:

/Craig Thurmond _____
Mayor

/Lisa Blackford _____
City Clerk