



## 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*

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<b>Tuesday, December 4, 2018</b>	<b>Time 6:30 p.m.</b>	<b>Council Chambers</b>
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#### 1. Call to Order

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

#### 2. Invocation

Invocation was performed by Pastor Andrew Conley.

#### 3. Roll Call

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

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

Cub Scout Troop No. 903 led the Pledge of Allegiance to the Flag.

#### 5. Consideration of Consent Agenda

Mayor Thurmond asked if there were any items to be removed from the Consent Agenda. There were none.

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

##### **Move to approve the Consent Agenda**

The motion carried by the following vote:

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

- A. 18-1372 Approval of the Special City Council Meeting Minutes of November 13, 2018**
- B. 18-1133 Approval of the City Council Meeting Minutes of November 20, 2018**
- C. 18-1384 Approval of and authorization to execute Fiscal Year 2019 Budget Amendment No. 3 for additional money for legal services**
- D. 18-1383 Approval of and authorization to execute Fiscal Year 2019 Budget Amendment No. 4 for the purchase of a Digital Fire Training System**
- E. 18-1382 Approval of and authorization to execute Fiscal Year 2018-19 Budget Amendment No. 5 for a Swift Water Rescue Boat that will be paid for by a grant from the Oklahoma Department of Emergency Management**
- F. 18-1369 Approval of and authorization to execute the Amendment No. 1 to Professional Services Agreement with Kleinfelder for the 37th Street Regional Detention Areas- Wetland & Stream Mitigation & Permitting (Project No. SW1312B)**
- G. 18-1350 Approval of and authorization to execute a Promotional License on City Property allowing Ruts N Guts LLC to host the 2018 Ruts N Guts event**
- H. 18-1401 Approval of and authorization to execute a Fourth Amended Attorney Engagement Agreement between the City of Broken Arrow and Tammy Ewing for providing counsel and legal advice on an as-needed and as-assigned basis, which may include prosecution of Municipal Court cases, representation in State Court litigation and review of contracts and drafting ordinances and other documents**
- I. 18-1368 Award the lowest responsible bid to Third Generation Electrical, Inc., and approve and authorize execution of a construction contract for the Indian Springs Sports Complex Soccer (ISSC) Field #28 Lighting (Project No. 196023)**
- J. 18-1390 Approval of authorization to reject all bids for the Firing Range Tower foundation repair and find that rejection of the bids is in the best interest of the Citizens of Broken Arrow (Project No. 193036)**
- K. 18-1380 Approval of and authorization to issue a temporary sanitary sewer service and connection for the Milestone mixed use project job trailer, located on Callaway lot, east of the proposed site 305 North Main Street, Broken Arrow, Oklahoma**
- L. 18-1354 Acceptance of a Detention Easement from Pines at the Preserve, LLC on a portion of unplatted property approximately one-quarter mile south of Omaha Street, one-half mile west of 37th Street, shown as Exhibit A (Section 31, T19N, R15E) (Pines at the Preserve Subdivision)**

- M. 18-1355 Acceptance of a Detention Easement from Pines at the Preserve, LLC on a portion of unplatted property approximately one-quarter mile south of Omaha Street, one-half mile west of 37th Street, shown as Exhibit B (Section 31, T19N, R15E) (Pines at the Preserve Subdivision)
- N. 18-1356 Acceptance of a Utility Easement from Pines at the Preserve, LLC on a portion of unplatted property approximately one-quarter mile south of Omaha Street, one-half mile west of 37th Street, shown as Exhibit A (Section 31, T19N, R15E) (Pines at the Preserve Subdivision)
- O. 18-1357 Acceptance of a Utility Easement from Pines at the Preserve, LLC on a portion of unplatted property approximately one-quarter mile south of Omaha Street, one-half mile west of 37th Street, shown as Exhibit B (Section 31, T19N, R15E) (Pines at the Preserve Subdivision)
- P. 18-1359 Acceptance of a Deed of Dedication from Terry Toomey and Carol Toomey on a portion of unplatted property north and east of the northeast corner of Albany Street and 51st Street (Evans Road), shown as Exhibit B (Section 33, T19N, R14E)
- Q. 18-1358 Acceptance of a Utility Easement from Terry Toomey and Carol Toomey on a portion of unplatted property north and east of the northeast corner of Albany Street and 51st Street (Evans Road), shown as Exhibit C (Section 33, T19N, R14E)
- R. 18-1377 Approval of (Planned Unit Development) PUD-283 and BAZ-2015 (Rezoning), Dollar General Broken Arrow, 2.00 acres, A-CH to CG, located west of the southwest corner of Aspen Avenue and Omaha Street
- S. 18-1378 Approval of PT17-101, Conditional Final Plat, 121 Elm, 1 lot, 1.43 acres, A-1 to CN/PUD-199A, south and west of the southwest corner of Elm Place and Tucson Street
- T. 18-70 Approval of the Broken Arrow City Council Claims List for December 04, 2018

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

There were no Items removed from the Consent Agenda. No action was needed or taken.

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

- A. 18-1347 **Presentation of Service Award Pin to Council Member Mike Lester**  
Assistant City Manager of Administration, Russel Gale, reported each year City Officials who completed benchmark years of service were recognized by the city. He stated in 2018 Council Member Mike Lester completed 20 years of service as City Counselor and as a Planning Commission Member. He stated Council Member Lester also served five years on the Union School Board. He stated in honor and recognition of his substantial career in Public Service it was proposed Council Member Lester be presented with a Service Award Pin and Certificate of Achievement. Mayor Thurmond presented the Service Award Pin and Certificate of Achievement to Council Member Lester.

Council Member Lester stated he began his career in service in 1982 with membership on his son's PTA Board which led to 29 years of service on various school boards, education foundations, Planning Commission and finally City Council. He stated he has enjoyed all of his years of service and hoped to continue to serve.

#### 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)

Citizen Richard Carter stated with Thanksgiving come and gone there were many things the city needed to be thankful for, one of which were the fine city employees. He stated over this Thanksgiving weekend he especially learned how thankful he was for the Sanitation Department. He explained trash was not picked up on Thursday or Friday due to the Thanksgiving holiday and by Monday there were mounds of trash along the curb-side. He stated the sanitation employees worked long hours, until after dark, on that Monday and he felt the Sanitation Department deserved special thanks and recognition for its efforts.

Mayor Thurmond thanked Mr. Carter for his comments.

#### 9. General Council Business

- A. 18-1324 **Consideration, discussion, and possible appointment of three (3) representatives and one alternate representative to the Indian Nations Council of Governments (INCOG) Board of Directors and one representative and one alternate to the INCOG General Assembly, each for a two-year term beginning in January, 2019**  
Mr. Russel Gale reported the City of Broken Arrow was allocated three positions on the Indian Nations Council of Governments (INCOG) Board of Directors and each representative would serve a two year term beginning in January, 2019. He stated historically City Council selected two of its own members and the City Manager to serve. He stated one official would be elected to the General Assembly and City Manager Spurgeon had been serving in this role. He asked City Council to appoint the three upcoming positions along with an alternate.

Council Member Lester nominated Mayor Craig Thurmond, Vice Mayor Scott Eudey, and City Manager Michael Spurgeon to serve on the INCOG Board of Directors and Council Member Johnnie Parks to serve as the alternate.

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

**Move to approve appointment of Craig Thurmond, Scott Eudey, and Michael Spurgeon to serve on the INCOG Board of Directors with Johnnie Parks as the alternate**

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. 18-1385** **Consideration, discussion, and possible adoption of Ordinance No. 3547 an ordinance amending Chapter 7-Business Regulations and Licenses, Article 1-In General, Section 7-12, Mobile food vendors; repealing all ordinances to the contrary; and declaring an emergency**  
City Attorney, Trevor Dennis, reported Ordinance No. 3547 was previewed at the last City Council Meeting. He stated it amended Chapter 7 – Business Regulations for mobile food vendors and required an annual permit rather than a permit for each location for mobile food vendors. He explained this would make it easier for mobile food vendors to operate in the City of Broken Arrow. He stated Ordinance No. 3547 also removed the requirement for site plans as part of the permitting process. He stated staff recommended approval of Ordinance No. 3547 and adoption of the emergency clause.

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

**Move to adopt Ordinance No. 3547**

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 Debra Wimpee.

**Move for 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**

Council Member Lester stated he appreciated the Recognition, but he hoped it was understood he was just a single member of a whole entity. He stated he appreciated all those he had served with over the years.

Vice Mayor Eudey stated he appreciated Council Member Lester’s years of service to the Community of Broken Arrow; he was glad Council Member Lester was willing to make the sacrifice of time and effort. He stated he had enjoyed serving with Council Member Lester and looked forward to continuing in the future.

Council Member Parks stated as an alternate on the INCOG (Indian Nations Council of Governments) he did not attend unless he was called upon to fill in for another’s absence. He asked the INCOG members to feel free to call upon him if he was needed; he was willing to serve.

Mayor Thurmond stated he appreciated Council Member Lester’s service, as well as the rest of City Council and staff.

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

Assistant City Manager Gale asked Deputy Chief of Police Mark Irwin to update City Council regarding the incident at Rhema Bible Training College over the past weekend.

Deputy Chief of Police, Mark Irwin, stated on Saturday evening at approximately 8:30 p.m. the city received fourteen 911 calls related to disturbances on the Rhema Campus. He explained the calls revolved around juveniles fighting. He stated the Police Department sent approximately fifteen officers from two different shifts to break up the fights which in turn moved to different locations on campus, and at approximately 10:00 p.m. the fighting moved to the McDonald’s and were finally dispersed from this location as well. He stated there were no victims who alleged an assault, no reports taken, and no arrests made.

Vice Mayor Eudey asked if Rhema planned to increase its security. Deputy Chief Irwin responded in the affirmative; the Police Department would conduct additional patrols in the area, and Rhema would add security as well. Council Member Debra Wimpee stated according to social media the fights had not involved Broken Arrow students. She asked if the Police Department had any way of confirming this information. Deputy Chief Irwin responded in the negative. Council Member Lester asked about the age group involved. Deputy Chief Irwin responded the age group included ages 14 through 17.

At approximately 6:43 p.m. Mayor Thurmond stated he would entertain a motion for a brief recess to enter into Broken Arrow Municipal Authority and Broken Arrow Economic Development Authority.

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

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

The motion carried by the following vote:

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

At approximately 6:53 p.m. Mayor Thurmond reconvened the regular session of the City Council Meeting. He stated there was an Executive Session and he would entertain a motion for a brief recess to clear the room for the Executive Session.

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

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

The motion carried by the following vote:

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

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

**Move to enter into the Executive Session**

The motion carried by the following vote:

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

#### **14. Executive Session**

**Executive Session for the purpose of confidential communications between the City Council, the City Manager, the City Attorney and any other pertinent staff members discussing and conferring on matters pertaining to:**

- 1. Possible litigation, including potential resolution, of a matter involving the tort claim of Patricia Smith vs. City of Broken Arrow, and taking appropriate action in open session, including possible authorization to settle this tort claim, under 25 O.S. §307(B)(4).**
- 2. A claim, potential litigation or action related to a lawsuit against the manufacturers and distributors of opioid prescription drugs and other potential related defendants, under 25 O.S. §307(B)(4).**
- 3. Litigation, including potential resolution, of a matter involving the litigation case of Brown & Perkins, LLC vs. City of Broken Arrow et al., Tulsa County District Court Case Number CV-2018-01338, under 25 O.S. §307(B)(4).**
- 4. Litigation, including potential resolution, of a matter involving the litigation case of City of Broken Arrow vs. Nikel Investment, LLC et al., Tulsa County District Court Case Number CJ-2017-1470, 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 claim, litigation and possible litigation and that disclosure will seriously impair the ability of the public body to process the claim or conduct a pending investigation, litigation or proceeding 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 7:22 p.m. the regular session of the City Council Meeting was reconvened.

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

**Move to deny the tort claim of Patricia Smith**

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 negotiate a partial settlement agreement with Nikel Investment, LLC, Lamar Central Outdoor, LLC, STC Contracting Company, Leake Investment Company and First Stuart Corporation in the matter of the City of Broken Arrow v. Nikel Investment, Case No. CJ-2017-1470**

The motion carried by 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 find that Executive Session was necessary**

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 Mike Lester, seconded by Scott Eudey.

**Move to enter into another Executive Session**

The motion carried by the following vote:

**Aye:**     **3 -**     Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

Mayor Thurmond and Vice Mayor Eudey left the Council Chambers at approximately 7:23 p.m. and did not return. At approximately 8:16 p.m. the regular session of the City Council was reconvened.

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

**Move to authorize the City Attorney and outside counsel to enter into settlement negotiations with Brown and Perkins for a revised plan that may be presented for Council consideration**

The motion carried by following vote:

**Aye:**     **3 -**     Debra Wimpee, Johnnie Parks, Mike Lester,

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

**Move to find that Executive Session was necessary**

The motion carried by the following vote:

**Aye:**     **3 -**     Debra Wimpee, Johnnie Parks, Mike Lester

**15. Adjournment**

The meeting adjourned at approximately 8:18 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:**     **3 -**     Debra Wimpee, Johnnie Parks, Mike Lester

Attest:

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

Mayor

s/Curtis Green\_\_\_\_\_

City Clerk