



City of Broken Arrow

Council Chambers
220 S 1st Street
Broken Arrow OK, 74012

City Council Minutes

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

Tuesday, July 7, 2015

Council Chambers

6:30 PM

1. Call to Order

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

2. Invocation

Chaplain Richard Manganero delivered an invocation.

3. Roll Call

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

4. Pledge of Allegiance to the Flag

Councilor Mike Lester led the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

Mayor Thurmond asked if there were any items to remove from the Consent Agenda. There being none, he asked for a motion.

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

Move to approve the Consent Agenda as presented

The motion carried by the following vote:

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

- A. 15-103 Approval of Broken Arrow City Council meeting minutes of June 15, 2015**
- B. 15-127 Acceptance of minutes of Planning Commission meeting held May 28, 2015**
- C. 15-122 Approval of the Battle Creek Golf Course Business Insurance Policy with Philadelphia Insurance Company for Fiscal Year 2015-16**
- D. 15-120 Approval of the Fiscal Year 2015-16 Citywide Property Insurance Policies with the Oklahoma Municipal Assurance Group (OMAG) and Chubb Insurance**
- E. 15-123 Approval of the Fiscal Year 2015-16 Property and General Liability Coverage Policy with Hartford Underwriters Insurance Company for the City-Owned Building Occupied by Bass Pro Shops**
- F. 15-109 Approval of and authorization to execute a Termination and Equipment Transfer Agreement between the City of Broken Arrow and Cricket Communications, Inc., on property located at 1701 West Boston Street**
- G. 15-110 Approval of and authorization to execute a Termination and Equipment Transfer Agreement between the City of Broken Arrow and Cricket Communications, Inc., on property located at 550 North Pecan Street**
- H. 15-128 Approval of and authorization to renew the annual Commercial Services Agreement with Cox Communications for data and telephone services for fiscal year 2015-16**
- I. 15-132 Approval of and authorization to execute a Use Agreement with Broken Arrow Historical Society for fiscal year 2015-16**
- J. 15-133 Approval of and authorization to execute a Use Agreement with the Broken Arrow Military History Center for fiscal year 2015-16**

- K. 15-108 **Approval of and authorization to execute Amendment Number One to the Site Use/Lease Agreement between the City of Broken Arrow and Sprint Nextel**
- L. 15-100 **Review of bids received and award the most advantageous and bid to Marmic Fire & Safety Company for city wide fire extinguisher and fire protection equipment inspection and maintenance services**
- M. 15-076 **Approval of final acceptance of the public improvements for Broken Arrow Post-Acute Health Center**
- N. 15-074 **Approval of final acceptance of the public improvements for Broken Arrow Public Schools Transportation and Maintenance Facility**
- O. 15-149 **Approval of the July 7, 2015 Claims List**

6. Consideration of Items Removed from Consent Agenda

There were no items removed from the Consent Agenda. No action was required or taken.

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

There were no public hearings, appeals, presentations, recognitions, awards or oaths. No action was required or taken.

8. Citizens' Opportunity to Address the Council on General Topics

Ms. Mary Ann Colston of Broken Arrow addressed the Council to thank the City for listening and taking action to prevent a reoccurrence of flooding that took place in the Adams Creek Basin in 2006 and 2008. She said that because of the preventative action plan and implementation of flood deterrents she was sure a great deal of property damage had been averted during recent rains. She specifically thanked Mr. Jeff Bigby, Floodplain Manager, Mr. Kenny Schwab, formally the Director of Engineering and Construction, and the City Council. She also thanked private citizen, Mr. Joe Robson, who partnered with the City on the issue.

Mayor Thurmond said that he appreciated her report and he expressed understanding for flood concerns that she had brought before the council in the past.

No action was required or taken.

9. General Council Business

- A. 15-093 **Acknowledgement of bids received, as well as Stoney Creek Hospitality Corporation's award of the lowest and best bid to Tri-Star Construction, and approval of a contract for site earth work and construction of certain utilities and infrastructure for the Stoney Creek Conference Center and Hotel using Vision 2025 proceeds allocated to the City of Broken Arrow**

Director of Development Services, Mr. Michael Skate, said this item indicated that the contract for site earth work had been awarded to Tri-Star Construction as the lowest bidder. He said the contract also included an access drive, a portion of a water line, and some storm sewer boxes. He said that the full set of engineering plans would be presented to Council at a later date. Mr. Skates said the total for the contract of \$1,815,033.50 would come from the Vision 2025 access funds.

Councilor Mike Lester noted that the bid was \$1,000,000.00 below the engineer's estimate which was good news.

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

Move to acknowledge Stoney Creek Hospitality Corporation's award of the lowest and best bid to Tri-Star Construction and its approval of a construction contract for site earth work and construction of certain utilities and infrastructure

The motion carried by the following vote:

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

B. 15-040 Consideration, possible approval of and authorization to execute an Economic Development Agreement with RDS Properties II, LLC, for the purposes of providing economic development incentives for installation of a sprinkler system on property located at 207 South Main Street, Broken Arrow, Oklahoma

Assistant to the City Manager and Economic Development Coordinator, Mr. Norm Stephens, reviewed the property management and restoration of buildings in the Rose District that are owned by RDS Properties LLC, a company owned by Mr. Roy D. Sturgeon. He told the Council that, in November of 2013, the building at 207 South Main Street had been leased to South Hampton LLC which was currently operating as Stogies, a cocktail and cigar bar. Mr. Stephens explained that Mr. Sturgeon had invested an additional \$45,000.00 to allow for an event space on the second floor but after South Hampton moved into the first floor of the building, it was determined the City-owned 4-inch water line could not produce sufficient pressure to properly feed a fire suppression system. He said that the City of Broken Arrow had since replaced the 4-inch water line with an 8-inch water line which would provide sufficient requirements for this occupancy. Mr. Stephens said that Mr. Sturgeon's representative had approached the Broken Arrow Economic Development Board of Directors to request economic development assistance for the purposes of installing an above ground wet pipe fire sprinkler system for 207 South Main Street.

After the presentation, the BAEDC Board Members voted unanimously to recommend to the Downtown Advisory Board and the Broken Arrow City Council to provide up to \$25,000.00 in economic development incentives for the purpose of installing a fire sprinkler system in 207 South Main Street. Mr. Stephens said that because the 13.5 million within the Tax Increment Financing for development and incentives had been exhausted the requested \$25,000.00 would need to be provided from the General Fund.

Mayor Thurmond asked the Acting City Manager, Mr. Russell Gale, if the funds were available in the General Fund. Mr. Gale said that the funds were available.

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

Move to approve the economic development agreement with RDS Properties II, LLC, and authorize its execution

The motion carried by the following vote:

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

C. 15-134 Approval of and acceptance of the Street Light Plan for The Shops at Aspen Creek and acceptance of operation and maintenance of the decorative lights along Aspen Creek Drive within the Shops at Aspen Creek

Mr. Skates told the Council that in 2012 the City of Broken Arrow had contracted Sig-Broken Arrow, LTD for the development of a high end retail development known as The Shops at Aspen Creek. Mr. Skates said that staff had determined that the City's current streetlight policy needed modification for commercial subdivisions if nonstandard PSO decorative poles are to be allowed. He said the bases of the proposed lights were modeled after the lights on Main Street and would provide a template for future decorative lighting systems that could be included in the future Traffic Control Manual.

Mr. Skates said that surveys of other cities reflected that most allow decorative lights that are paid for and installed by the Developer while the operation and maintenance is the responsibility of the City. He said the City's General Services Director, Mr. Lee Zirk, determined that the 12 proposed decorative lights along Aspen Creek Drive would cost \$24.00 or less per month (about \$1.98/per month per light).

Councilor Lester asked if the City would then be accepting responsibility for the lights after installation by the developer. Mr. Skates answered yes, saying that Sig-Broken Arrow would submit performance bonds which would then be followed by a construction permit from the City. He said Sig-Broken Arrow, LTD would then be responsible for construction and installation with a warranty period.

A motion was made by Mike Lester, seconded by Richard Carter:
Move to approve and accept the Street Light Plan light plan for the Shops at Aspen Creek and accept the operation and maintenance of the decorative lights along Aspen Creek Drive within the Shops at Aspen
The motion carried by the following vote:

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

D. 15-131 Consideration, possible approval of and authorization to execute the Fiscal Year 2015-16 Labor Agreement with the Fraternal Order of Police Lodge #170

Acting Director of Human Resources, Ms. Jannette McCormick, told the Council that on June 17, 2015 the Lodge membership ratified the proposed agreement contract with the Fraternal Order of Police Lodge #170 for a Fiscal Year 2015-16 labor agreement. Ms. McCormick reviewed the administrative / procedural changes to the agreement and the substantive economic impact totaled \$215,500.00 for the Fiscal Year 2015-16 for the following items.

1. A 3% base wage increase for all bargaining unit members
An increase in the additional pay to Field Training Officers from \$25 per shift to \$30 per shift
3. An increase in holiday leave hours from 88 hours per year to 96 hours per year

A motion was made by Richard Carter, seconded by Scott Eudey:
Move to approve the Labor Agreement with the Fraternal Order of Police Lodge #170 for Fiscal Year 2015-16 and authorize its execution
The motion carried by the following vote:

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

E. 15-139 Consideration, possible approval of and authorization to execute Resolution 883, a Resolution of the City Council of the City of Broken Arrow accepting and approving the re-codification of the Broken Arrow Code of Ordinances; acknowledging the compilation and publication in a printed, permanent form; notifying the public of the publication and re-codification of the Code of Ordinances and their availability in the Tulsa and Wagoner County Law Libraries and on the City's website, as well as for purchase in the office of the City Clerk; and authorizing the City Clerk to take all such actions necessary to effectuate compliance with State Statute.

City Attorney, Ms. Beth Anne Wilkening, said that the State requires that Municipal Code be re-codified every ten years. She said that regular updates to the code are made available within the Law Libraries and Court Clerk's office as well as online through the City's website. Ms. Wilkening thanked the City Clerk, Ms. Liza Bryce, for support provided during the process. She said the Resolution before the Council contains the statutory requirements and availabilities of the code.

A motion was made by Scott Eudey, seconded by Johnnie Parks:
Move to approve Resolution No. 883 and authorize its execution
The motion carried by the following vote:

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

F. 15-140 Consideration, possible approval and authorization to execute Resolution No. 884, a Resolution authorizing the City Attorney to enter into the Final Entry of Judgment without admitting liability in the matter of AG Equipment Company v. City of Broken Arrow, Oklahoma, et al., Tulsa County District Court Case Number CJ-2015-507, authorizing foreclosure and vacation of a utility easement on property located on part of Williams Brothers Constructors Park Amended, an addition to the City of Broken Arrow, Tulsa County, Oklahoma, a resubdivision of Lot 1, Block 1, Williams Brothers Constructors Park and a subdivision of part of Lot 2 and Part of the South Half of the Northeast Quarter of Section Four, Township 18 North, Range 14 East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, generally located one-half mile south of West Albany Street, East of North Olive Avenue, Tulsa County, Broken Arrow, Oklahoma.

Ms. Wilkening said this would be the final Resolution with AG Equipment regarding authorization of foreclosure and vacation of a utility easement on property located on part of Williams Brothers Constructors Park. She said this was necessary for AG Equipment to own and make use of the property by authorizing the legal staff to appear before the District Court for formal foreclosure proceedings.

A motion was made by Johnnie Parks, seconded by Mike Lester:
Move to approve Resolution No. 884 and authorize its execution
The motion carried by the following vote:

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

- G. 15-147 Consideration, possible approval of, and authorization to execute Resolution Number 886, a resolution approving action taken by the Broken Arrow Municipal Authority authorizing the issuance of its promissory note in principal amount not to exceed \$12,500,000 to the Oklahoma Water Resources Board; ratifying and confirming a lease agreement and operation and maintenance contract and a security agreement between the City and the Authority and containing other provisions relating thereto**

Mayor Thurmond asked for a motion to table this item until after the details are presented in the Broken Arrow Municipal Authority meeting.

A motion was made by Mike Lester, seconded by Johnnie Parks:
Move to table item 9G
The motion carried by the following vote:

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

Mayor Thurmond returned to this item after the Broken Arrow Municipal Authority meeting and called Mr. Russell Gale. Mr. Gale told the Council that this item was the companion Resolution regarding the Oklahoma Water Resources Board loan. He said that the Council's approval was required.

A motion was made by Scott Eudey, seconded by Mike Lester:
Move to approve Resolution Number 886 and authorize its execution
The motion carried by the following vote:

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

- H. 15-088 Consideration, discussion, and possible approval to purchase a ¾ ton crew cab pickup for the Fire Department from John Vance Motors pursuant to the State of Oklahoma vehicle contract**

Assistant City Manager, Mr. Jeff Jenkins, told the Council that the Fire Department had budgeted for the purchase of a ¾ ton crew cab pickup. He said that funds for this purchase were available in the Sales Tax Capital Improvement Fund in the amount of \$41,495.00. Mr. Jenkins said that traditionally it was the practice of the Logistics Division to seek bids for vehicles, however, as purchase from the State Contract is not only sanctioned by State Statute, but also the Code of Ordinances, it is the request of Staff that the Council consider a deviation from accepted practice to allow suitable purchases directly from the State Contract without going through the lengthy and complex formal competitive bidding process.

A motion was made by Mike Lester, seconded by Richard Carter:
Move to approve the purchase of a Dodge Ram 2500 ¾ ton crew cab pickup from John Vance Motors pursuant to the State of Oklahoma vehicle contract
The motion carried by the following vote:

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

- I. 15-099 Consideration, discussion, and possible approval to purchase a 1-ton crew cab pickup for the Police Department from Bob Hurley Ford pursuant to the State of Oklahoma vehicle contract**

Mr. Jenkins said that this item was similar issues for 9H and the request from the Police Department was for the approval of a Ford F-350 from Bob Hurley Ford for a FordF-350 as the vehicle best suited for their needs and, therefore, recommends its purchase from the State of Oklahoma vehicle contract.

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

Move to approve the purchase of a Ford F-350 1-ton crew cab pickup from Bob Hurley Ford pursuant to the State of Oklahoma vehicle contract

The motion carried by the following vote:

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

J. 15-116 Consideration and possible approval regarding PUD 191B, a Planned Use Development for Kenosha Villas, a request for a major amendment to PUD 191A, 8.70acres, IL to PUD 191A/RM and FD, located one-half mile west of Aspen Avenue, one-quarter mile north of Kenosha Street, at the north end of Elder Place

Mr. Skates told the Council this item, Planned Unit Development (PUD) 191B, was a request for a major amendment to PUD 191A on 8.70 acres of unplatted land, locate done-half mile west of Aspen Avenue, one-quarter mile north of Kenosha Street, at the north end of Elder Place. He said the applicant was proposing the construction of 32 residential duplex units on 16 lots. Mr. Skates said this property would be divided into three Development Areas - A, B, and C. Development Area A will be the first phase with 12 dwelling units, while Development Area B will be the second phase with 20 dwelling units. Development Area C, which contains 2.94 acres, would be used only for storm water detention.

Councilor Parks asked what was in the Area A before. Mr. Skates said originally there was nothing on the property and then with the original PUD, Kenosha Landing was developed. He said 191B is related to the new development.

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

Move to Approve PUD 191B, Kenosha Villas, as recommended by the Planning Commission and Staff, subject to the property being platted

The motion carried by the following vote:

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

10. Preview Ordinances

A. 15-143 Consideration, discussion and possible preview on an ordinance amending Chapter 7, Article I, In General, Section 7-2 of the Broken Arrow Code, License tax for itinerant merchants specifically prohibiting merchants from conducting business within 250 feet of a special event in which the City has entered into a contract authorizing such event; repealing all ordinances to the contrary and declaring an emergency

Ms. Wilkening explained that this amendment would protect event planners from encroachment from unauthorized merchants setting up in close proximity to licensed events. She said this Ordinance would specifically prohibit merchants from conducting business within 250 feet of a special event. Ms. Wilkening explained that while this amendment had already been authorized by Council it had inadvertently been removed from the Ordinance so this revision would put the requirement back into the Ordinance.

Councilor Parks asked where the parameter was designated. Ms. Wilkening said it would be the boundary of the event which is designated by the event license.

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

Move to preview Ordinance and set it for adoption

The motion carried by the following vote:

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

11. Ordinances

- A. 15-118 **Consideration, discussion and possible adoption of Ordinance No. 3352, an ordinance closing a utility easement on property located on part of Lot Six (6), Block Three (3), Kenwood Hills Second Addition, an addition to the City of Broken Arrow, Oklahoma, generally located at one-quarter mile north of Kenosha Street and one-third mile west of Elm Place (Kenwood Hills Second Addition); repealing all ordinances to the contrary; and declaring an emergency**

Ms. Wilkening said the applicant had requested a vacation of a five foot utility easement located in the Kenwood Hills Second Addition. She said the plans were to purchase an adjoining lot. Ms. Wilkening said that she anticipated foreclosure proceedings in District Court.

A motion was made by Mike Lester, seconded by Richard Carter:
Move to adopt Ordinance No. 3352

The motion carried by the following vote:

Aye: 4 - Scott Eudey, Mike Lester, Richard Carter, and Craig Thurmond
Abstain: 1 - Johnnie Parks

A motion was made by Mike Lester, seconded by Richard Carter:
Move approve the Emergency Clause

The motion carried by the following vote:

Aye: 4 - Scott Eudey, Mike Lester, Richard Carter, and Craig Thurmond
Abstain: 1 - Johnnie Parks

- B. 15-119 **Consideration, discussion and possible adoption of Ordinance No. 3353, an ordinance closing a utility easement on property located on part of Lot Five (5), Block Three (3), Kenwood Hills Second Addition, an addition to the City of Broken Arrow, Oklahoma, generally located at one-quarter mile north of Kenosha Street and one-third mile west of Elm Place (Kenwood Hills Second Addition); repealing all ordinances to the contrary; and declaring an emergency**

Ms. Wilkening said this was a companion to item 11A and it is recommended that Council adopt this Ordinance and approve the emergency clause.

A motion was made by Mike Lester, seconded by Richard Carter:
Move to adopt Ordinance No. 3354

The motion carried by the following vote:

Aye: 4 - Scott Eudey, Mike Lester, Richard Carter, and Craig Thurmond
Abstain: 1 - Johnnie Parks

A motion was made by Mike Lester, seconded by Richard Carter:
Move to approve the Emergency Clause

The motion carried by the following vote:

Aye: 4 - Scott Eudey, Mike Lester, Richard Carter, and Craig Thurmond
Abstain: 1 - Johnnie Parks

- C. 15-121 **Consideration, discussion and possible adoption of Ordinance No. 3354, an ordinance partially closing a utility easement in part of Lot 27, Block 1, Willow Springs IV, an addition to the City of Broken Arrow, Tulsa County, State of Oklahoma, generally located south of Jasper Street and west of Aspen Avenue; and repealing all ordinances to the contrary; and declaring an emergency**

Ms. Wilkening said this request is to close 8 feet of the 40 foot utility easement to allow construction of an accessory structure on the property. She said the Ordinance had been previewed in January of 2014 and was never forwarded for adoption. She said that the delay did give staff an opportunity to secure agreements from all utility companies involved.

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

Move to adopt Ordinance No. 3354

The motion carried by the following vote:

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

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

12. Remarks and Inquiries by Governing Body Members

There were no remarks and inquiries by Governing Body Members.

13. Remarks by Acting City Manager

There were no remarks by Acting City Manager.

Mayor Thurmond asked for a motion to recess in order to enter into the Broken Arrow Municipal Authority and the Broken Arrow Economic Development Authority meetings.

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

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

The motion carried by the following vote:

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

Mayor Thurmond reconvened the regular Council meeting at approximately 7:13 p.m. and returned to item 9G.

Mayor Thurmond asked for a motion to recess prior to entering into the Executive Session.

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

Move to take a recess prior to entering Executive Session

The motion carried by the following vote:

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

Mayor Thurmond reconvened the Council meeting at 7:20 p.m. asked for a motion to enter into the Executive Session.

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

Move to enter Executive Session

The motion carried by the following vote:

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

14. Executive Session

Executive Session for the purpose of confidential communications between the City Council, the Acting City Manager, and the City Attorney, and possible action in open session regarding a pending litigation offer of settlement and taking appropriate action in open session in Green Acre Sod Farm v. City of Broken Arrow, a pending tort claim, under 25 O.S. §307(B)(4). In the opinion of the City Attorney, the Council is advised that disclosure will seriously impair the ability of the public body to process the pending 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 7:34 p.m., Mayor Thurmond reconvened the regular session of the City Council meeting and the room was opened to the public. The Mayor asked if there was a motion.

A motion was made by Richard Carter, seconded by Mike Lester:
Move to authorize the Legal Department to continue negotiations for resolution of the tort claim submitted by Robert Cook
The motion carried by the following vote:

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

15. Adjournment

The meeting adjourned at approximately 7:34 p.m.

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

Move to adjourn

The motion carried by the following vote:

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



Mayor



Attest:



City Clerk 7-21-2015