

**BROKEN ARROW CITY COUNCIL  
MINUTES  
COUNCIL CHAMBERS  
220 SOUTH FIRST STREET  
BROKEN ARROW, OKLAHOMA 74012  
February 3, 2015**

**6:30 PM**

**1. Call to Order**

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

**2. Invocation**

**Section Minutes:** Chaplain Scott Keele delivered an invocation.

**3. Roll Call**

<b>Present:</b>	Johnnie Parks, Jill Norman, Mike Lester, Richard Carter and Craig Thurmond
<b>Absent:</b>	None

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

**Section Minutes:** Vice Mayor Richard Carter led the Pledge of Allegiance to the Flag.

**5. Consideration of Consent Agenda**

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

<b>Motion:</b>	<b>Move to approve the Consent Agenda as presented</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Johnnie Parks, Jill Norman, Mike Lester, Richard Carter and Craig Thurmond
<b>Nays:</b>	None

- A. Approval of meeting minutes of January 20, 2015
- B. Acceptance of minutes of Planning Commission meeting held December 18, 2014
- C. Approval of and authorization to execute a Parks and Recreation Use Agreement between the City of Broken Arrow and the Broken Arrow Youth Baseball Association for use of the baseball fields at Indian Springs Sports Complex from the date of execution through December 31, 2019
- D. Approval of PT14-108, Conditional Final Plat, 51 Aspen RV Storage, 8.01 acres, 1 lot, A-1 to IL/PUD 227, south of State Highway 51, one-quarter mile west of Evans Road
- E. Approval of PT14-110, Conditional Final Plat, Rib Crib Addition, 1.37 acres, 1 lot, R-2, CN, and CH to CN/PUD 232, south of Kenosha Street between Ash Avenue and Main Street
- F. Approval of a Partial Vacation of Plat, Termination of Owner's Certificate of Dedication and Restrictive Covenants for Brown's Addition (Plat No. 1744), for Lots One (1), Two (2), Three (3), Twelve (12) and Thirteen (13), of Block Four (4), City of Broken Arrow, Tulsa County, Oklahoma, generally located at the southwest corner of Kenosha Street and Main Street; subject to the platting of Rib Crib Addition
- G. Acceptance of a Corrective Deed of Dedication from AG Equipment on a property located south of Albany Street and east of North Olive Avenue on Block 1, Lots 4 & 5 and Block 3, Lot 1 of 61st Street Industrial Park City of Broken Arrow (AG Equipment)
- H. Acceptance of an Emergency Access Easement on an unplatted portion of the Stone Horse LLC subdivision, belonging to Stone Horse LLC, located east of Olive Avenue, one-half mile north of Jasper Street, Broken Arrow, Tulsa County, State of Oklahoma (Section 04, T17N, R14E)(Stone Horse Subdivision)
- I. Acceptance of a Utility Easement in Block 3 of Stone Horse of Broken Arrow, belonging to Stone Horse, LLC, east of Olive Avenue, one-half mile north of Jasper Street, Broken Arrow, Tulsa County, State of Oklahoma (Section 04, T17N, R14E)(Stone Horse Subdivision)
- J. Acceptance of a Utility Easement in Block 1 of Stone Horse of Broken Arrow, belonging to Stone Horse, LLC, east of Olive Avenue, one-half mile north of Jasper Street, Broken Arrow, Tulsa County, State of Oklahoma (Section 04, T17N, R14E)(Stone Horse Subdivision)
- K. Acceptance of a Utility Easement on an unplatted lot belonging to Stone Horse, LLC, east of Olive Avenue, one-half mile north of Jasper Street, Broken Arrow, Tulsa County, State of Oklahoma (Section 04, T17N, R14E)(Stone Horse Subdivision)
- L. Acceptance of a Utility Easement on an unplatted lot belonging to Stone Horse, LLC, east of Olive Avenue, one-half mile north of Jasper Street, Broken Arrow, Tulsa County, State of Oklahoma (Section 04, T17N, R14E)(Stone Horse Subdivision)
- M. Approval of the Claims List

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

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

7. **Public Hearings, Appeals, Presentations, Recognitions, Awards and Oaths**

**Section Minutes:** 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 Related to City Business or Services (No action may be taken on matters under this item)**

**Section Minutes:** No citizens signed up to speak.

9. **General Council Business**

A. Consideration and possible approval of PUD 233 and BAZ 1926, Wal-Mart Neighborhood Market, 11.35 acres for PUD 233 and 8.49 acres for BAZ 1926, RM and RD to CG, north and east of the northeast corner of 9th Street and Albany Street

**Item Minutes:** City Planner Mr. Farhad Daroga said this item pertained to an 11 acre plot located east of the northeast corner of 9th Street and Albany Street for a proposed Neighborhood Walmart Market. He said that during the previous Council meeting several design criteria had been discussed that had been included in the application before the Council. Mr. Daroga said that the Planning Commission had reviewed this request for a rezoning during their last meeting in January 2015 and the Commission had recommended approval.

Mr. Elliot Reed of Cochran Engineering, representing the Walmart Corporation, presented diagrams showing the proposed development. He said that Walmart would be complying beyond legal requirements to develop the property in a way that would be attractive and provide a buffer for the surrounding residents.

Dr. Pamela K. Fly, resident of Broken Arrow, expressed her opposition to the Walmart Market saying that she had approached City authorities on four different occasions in an attempt to present the neighborhood concerns regarding the project. She cited the concerns for traffic, safety, noise and light pollution and quality of life issues. She added that it was not a retail destination that would draw additional sales tax revenue into Broken Arrow.

Councilor Mike Lester said that he had completed a survey of new housing additions north of 51st Street and south of 41st Street that showed 1,400 new homes were in development. He said that while the houses were in Tulsa they would be shopping in Broken Arrow and it would be important to create opportunities for those future residents.

Councilor Johnnie Parks and Councilor Jill Norman asked about the configuration of the development Mr. Reed reviewed the details.

Mayor Thurmond accepted the motion and second and asked the Council for any further discussion.

Councilor Norman stated that she too had experienced many changes that had taken place around her neighborhood but that it was important to bear in mind the overall development of the City and the balance needed to provide quality of life for the community as a whole.

Councilor Richard Carter said that he had been reassured by the extraordinary efforts made by Walmart to create a development that would be unobtrusive.

<b>Motion:</b>	<b>Move to approve PUD 233 and BAZ 1926 as presented and as recommended by the Planning Commission and Staff, subject to the property being platted</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Johnnie Parks, Jill Norman, Mike Lester, Richard Carter and Craig Thurmond
<b>Nays:</b>	None

B. Consideration, discussion and possible approval and direction to publish a Legal Notice of Annexation for the voluntary annexation of approximately 27 acres located near the southwest corner of New Orleans Street and Olive Avenue

**Item Minutes:** Mr. Daroga told the Council that the parcel under consideration for Annexation was part of a tract that was surrounded on all four sides by City limits. He said the new owners of the 27 acres were requesting the Annexation for future development.

Mayor Thurmond stated that it was desirable to pull this property into the City Limits so that there would be some control over what is being built on the property.

Councilor Lester asked for reassurances that there would be no future complications with the Annexation. City Attorney Ms. Beth Anne Wilkening confirmed that there were unusual circumstances in this case and that staff would continue to carefully monitor the process through the Tulsa Metropolitan Planning Authority to ensure that all of Broken Arrows standards are met as the development moved forward.

Mayor Thurmond asked Mr. Daroga if the City had been involved in the development plans for the property or had it only been reviewed by Tulsa County. Mr. Daroga said both the City and the County were collaborating.

Councilor Parks asked if the zoning plans would be compatible with the City's comprehensive plans. Mr. Daroga said yes it would be compliant. He then asked if this case would set a precedent that would allow for zoning to be established before Annexation forcing the City to accept zoning established by the County. Ms. Wilkening said that it would not.

Councilor Parks asked for the nature of zoning and Mr. Fahad said that it would be detached single family residential with zero lot lines.

<b>Motion:</b>	<b>Move to direct the City Clerk to publish the Legal Notice of Annexation in accordance with State Statute</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Johnnie Parks, Jill Norman, Mike Lester, Richard Carter and Craig Thurmond
<b>Nays:</b>	None

C. General Fund Financial Presentation for the six months ending December 31, 2014

**Item Minutes:** Director of Finance Mr. Tom Caldwell gave a presentation for the first six months of the fiscal year and included an Overview and Income Statement for the six month period ending December 31, 2014. He told the Council that the City's net income was just under \$1,200,000.00. The revenue side was as expected with the exception of the ambulance funds which were about \$500,000.00 less than had been anticipated. He said the shortfall had been made up with lower expenses in personal services found within in the Police, Parks and Streets Departments. Mr. Caldwell said that this could be accounted for by vacancies that had not yet been filled and in underestimates for expenses related to recreation within Parks. He added that most of the saving had been in utility expenses and fuel costs.

No action was required or taken.

D. Consideration of and possible approval of a one percent stipend with a minimum payment of \$600 for all non-union City employees

**Item Minutes:** Acting City Manager Mr. Russell Gale told the Council that while salary increases were negotiated for Police and Fire employees earlier this year there were no funds budgeted for salary increases for non-union City employees. However, Mr. Gale said the Financial Director Mr. Caldwell had reported substantial savings within the salary personnel service accounts for both the General Funds and Municipal Authority Funds and as a result in recognition of all other City Employees it had been proposed that a onetime 1% stipend be provided with a minimum payment of \$600.00. The Council expressed appreciation for employee's efforts to keep expenses low and stated that the stipend was well deserved.

<b>Motion:</b>	<b>Move to approve a one percent stipend, with a minimum payment of \$600 for full-time employees, and a one percent stipend to part-time employees not covered by a labor agreement</b>
<b>Motion by:</b>	Richard Carter
<b>Second by:</b>	Jill Norman
<b>Ayes:</b>	Johnnie Parks, Jill Norman, Mike Lester, Richard Carter and Craig Thurmond
<b>Nays:</b>	None

10. Preview Ordinances

A. Consideration, discussion and possible preview of an ordinance closing a utility easement on property located on part of the Southwest Quarter (SW/4), Northeast Quarter (NE/4) of Section 4, Township 18 North, Range 14 East, Tulsa County, Oklahoma, generally located approximately one-half mile south of West Albany Street, east of North Olive Avenue (AG Industrial Park East); repealing all ordinances to the contrary; and declaring an emergency

**Item Minutes:** Ms. Wilkening told the Council that AG Equipment had requested closure of an off-site detention Utility Easement located in the Cedar Creek Park Amended as part of a business expansion project.

<b>Motion:</b>	<b>Move to preview Ordinance and set for adoption</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Johnnie Parks
<b>Ayes:</b>	Johnnie Parks, Jill Norman, Mike Lester, Richard Carter and Craig Thurmond
<b>Nays:</b>	None

B. Consideration, discussion and possible preview of an Ordinance amending the Broken Arrow Code of Ordinances by amending Chapter 23, Traffic, Article I, In General, Section 23-1 Definitions, specifically adopting definitions for words and phrases when used in this Chapter as defined by State Statute; Section 23-11 Size and weight of vehicles, specifically deleting subsection (b) to be in compliance with State Statute; Section 23-18 Riding on portion of vehicle not intended for passengers, clarifying the fine and court costs that can be imposed; Section 23-19 Clinging to vehicles, specifically amending to be in compliance with State Statute; Section 23-33 Unattended children or vulnerable adults left in vehicles, specifically defining the term motor vehicle and clarifying the fines and costs that may be imposed; Section 23-35 Owners security verification form required; Section 23-36 Operators and front seat passengers to wear safety belts; Section 23-37 Use of child passenger restraining system required; exceptions; penalty; Article II, Operation of Vehicles Generally, Section 23-47 Duty to drive on right side of roadway; Section 23-50 Same-Duty of driver of overtaken vehicle; Section 23-52 Same-No-passing zones; specifically amending these sections to become in compliance with State Statute; repealing all ordinances to the contrary; and declaring an emergency

**Item Minutes:** Ms. Wilkening said this was part of the City's overall recodification. She said that rather than listing definitions, specifically adopting definitions for words and phrases, it was recommended that there be a reference to State Statutes. She said that this would prevent the need to make changes to City code redefinitions if changes are made by the State. She said other needed changes would bring the Code into compliance with State Statutes relating to vehicle weights and other safety issues.

Councilor Parks asked if other changes to Code were made by the State would the City be required to make changes to be in compliance or would State Statute override the City's code. Ms. Wilkening said that because Broken Arrow was not a Charter City the law required that the City's traffic code must match State Statute in order to prosecute in Municipal Court.

<b>Motion:</b>	<b>Move to preview Ordinance and set for adoption</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Johnnie Parks, Jill Norman, Mike Lester, Richard Carter and Craig Thurmond
<b>Nays:</b>	None

**11. Ordinances**

- A. Consideration, discussion and possible adoption of Ordinance No. 3295, an ordinance amending the Zoning Ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1893, granting RS-3 zoning classification be placed upon the tracts, located one-quarter mile north of Florence Street on the west side of 9th Street at 10804 South Lynn Lane Road, Broken Arrow, Oklahoma and repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency

**Item Minutes:** Ms. Wilkening said that the next two Ordinances were not previewed at the previous meeting as it was a practice when the issue is rezoning to simply place them on the Agenda for adoption. She said adoption of this change would permit the City to amend the maps.

<b>Motion:</b>	<b>Move to adopt Ordinance 3295</b>
<b>Motion by:</b>	Johnnie Parks
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Johnnie Parks, Jill Norman, Mike Lester, Richard Carter and Craig Thurmond
<b>Nays:</b>	None

<b>Motion:</b>	<b>Move to approve the Emergency Clause</b>
<b>Motion by:</b>	Richard Carter
<b>Second by:</b>	Jill Norman
<b>Ayes:</b>	Johnnie Parks, Jill Norman, Mike Lester, Richard Carter and Craig Thurmond
<b>Nays:</b>	None

- B. Consideration, discussion and possible adoption of Ordinance No. 3309, an ordinance amending the Zoning Ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1909, granting a DM zoning classification be placed upon the tracts, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency

**Item Minutes:** Ms. Wilkening said that this Ordinance was approved by Council on March 18, 2014 subject to the alley being closed. She said the existing alley had been closed by the City Council on June 2, 2014 and the 0.96 acres were being developed by Arkansas Valley Bank.

<b>Motion:</b>	<b>Move to adopt Ordinance 3309</b>
<b>Motion by:</b>	Richard Carter
<b>Second by:</b>	Mike Lester
<b>Ayes:</b>	Johnnie Parks, Jill Norman, Mike Lester, Richard Carter and Craig Thurmond
<b>Nays:</b>	None

<b>Motion:</b>	<b>Move to approve the Emergency Clause</b>
<b>Motion by:</b>	Johnnie Parks
<b>Second by:</b>	Jill Norman
<b>Ayes:</b>	Johnnie Parks, Jill Norman, Mike Lester, Richard Carter and Craig Thurmond
<b>Nays:</b>	None

- C. Consideration, discussion and possible adoption of Ordinance No. 3330, an Ordinance amending the Broken Arrow Code of Ordinances by amending Chapter 20, Riot Prevention and Disaster Control, Section 20-4, Powers of mayor during state of emergency; specifically removing subsection (5) which regulates the possession of firearms during a state of emergency; repealing all ordinances to the contrary; and declaring an emergency

**Item Minutes:** Ms. Wilkening said the amended Ordinance pertained to firearms She said that they had removed subsection (5) from Section 20-4 to be compliant with State statutes.

<b>Motion:</b>	<b>Move to adopt Ordinance 3330</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Johnnie Parks, Jill Norman, Mike Lester, Richard Carter and Craig Thurmond
<b>Nays:</b>	None

<b>Motion:</b>	<b>Move to approve the Emergency Clause</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Johnnie Parks, Jill Norman, Mike Lester, Richard Carter and Craig Thurmond
<b>Nays:</b>	None

**12. Remarks and Inquiries by Governing Body Members**

**Section Minutes:** There were no official remarks and inquiries by Governing Body Members.

**13. Remarks by Acting City Manager**

**Section Minutes:** 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.

<b>Motion:</b>	<b>Move to recess in order to enter into the Broken Arrow Municipal Authority meeting and the Broken Arrow Economic Development Authority meeting</b>
<b>Motion by:</b>	Richard Carter
<b>Second by:</b>	Jill Norman
<b>Ayes:</b>	Johnnie Parks, Jill Norman, Mike Lester, Richard Carter, Craig Thurmond
<b>Nays:</b>	None

Mayor Thurmond reconvened the regular Council meeting at approximately 7:27 p.m. and asked for a motion to recess prior to entering into the Executive Session.

<b>Motion:</b>	<b>Move to take a recess prior to entering Executive Session</b>
<b>Motion by:</b>	Richard Carter
<b>Second by:</b>	Mike Lester
<b>Ayes:</b>	Johnnie Parks, Jill Norman, Mike Lester, Richard Carter, Craig Thurmond
<b>Nays:</b>	None

Mayor Thurmond asked for a motion to enter into the Executive Session.

<b>Motion:</b>	<b>Move to enter into Executive Session</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Johnnie Parks, Jill Norman, Mike Lester, Richard Carter, Craig Thurmond
<b>Nays:</b>	None

**14. Executive Session**

A. 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 pending litigation, settlement discussions and taking appropriate action in open session in Jered Henry and Christina Henry, natural parents on behalf of their Minor child, L.M.H. vs. Jordan Hunter, et al. Tulsa County District Court Case Number CJ-2014-1277, 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.

**Section Minutes:** At approximately 7:43 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 were any motions.

<b>Motion:</b>	<b>Move to find that the executive session was necessary to process the pending litigation</b>
<b>Motion by:</b>	Richard Carter
<b>Second by:</b>	Mike Lester
<b>Ayes:</b>	Richard Carter, Mike Lester, Craig Thurmond, Jill Norman, Johnnie Parks
<b>Nays:</b>	None

<b>Motion:</b>	<b>Move to authorize the City Attorney to settle the Henry Case in accordance with the direction given</b>
<b>Motion by:</b>	Richard Carter
<b>Second by:</b>	Mike Lester
<b>Ayes:</b>	Richard Carter, Mike Lester, Craig Thurmond, Jill Norman, Johnnie Parks
<b>Nays:</b>	None

**15. Adjournment**

**Section Minutes:** The meeting adjourned at approximately 7:44 p.m.

<b>Motion:</b>	<b>Move to adjourn</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Mike Lester, Richard Carter, Craig Thurmond, Jill Norman, Johnnie Parks
<b>Nays:</b>	None

 Mayor
 
 Attest:  City Clerk

