



City of Broken Arrow

Special Meeting 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, September 4th, 2018

Time 5:15 p.m.

City Hall Main Conference Room

1. Call to Order

Mayor Craig Thurmond called the meeting to order at approximately 5:15 p.m.

2. Roll Call

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

3. General Council Business

18 1058 **Presentation, consideration and possible action on the Manual of Fees and proposed revisions**
City Manager Spurgeon stated this was the Annual Review of the Manual of Fees. He reported the Manual of Fees was the document which listed all charges for services for the City of Broken Arrow. He stated each section of the Manual of Fees would be reviewed and should City Council approve, the Manual of Fees would come before City Council during regular session for official action.

Director of Development Services Michael Skates stated the first several pages of the Manual of Fees dealt with fees incurred for development services. He reported there was no change in Development Fees, but Building Permit Fees were proposed to be raised by 5%. He reported a 15% total increase was recommended for the Parks and Recreation fee, collected with the building permit. Parks and Recreation Director Scott Esmond stated the FY-19 forecasted income for this fund was \$170,000, and the 15% increase would equal an additional \$25,500, equaling less than \$195,500. He stated this was also called the residential development fee which was used for capital improvements for parks or to build new parks. He reported a new playground cost approximately \$195,000 to build. Vice Mayor Eudey asked when these fees had last been raised. Mr. Esmond responded the Parks and Recreation fee last changed September 6th, 2016. Mr. Skates responded the Building Permit fees were last changed in 2015. Vice Mayor Eudey asked if this would be an automatic annual increase of 5%. City Manager Spurgeon responded in the negative; fees were reviewed each year, but changes were only made when necessary.

Council Member Lester asked how Broken Arrow's fees aligned with neighboring communities. Mr. Skates responded the fees aligned very well; Broken Arrow certainly did not charge the highest fees, and was more in the middle to low range of fees as compared with surrounding communities. Mr. Skates reported he had submitted the Building Permit Fees to the Home Builders Association for a point of reference; the Home Builders Association indicated the fees were quite reasonable as compared with other communities. Mr. Skates stated on page 7 an item called Sanitary Sewer Tap had been moved from its previous location to the Miscellaneous Permits section. He stated the Annexation Fees, Comprehensive Plan Fees and Zoning Application Fees had been raised \$25 dollars each. He stated the Board of Adjustment Fee would remain the same. Vice Mayor Eudey asked what the Specific Use Fee would be. City Manager Spurgeon responded it would be raised by \$25 dollars to \$375 dollars. Mr. Skates stated the \$6 dollar fee per mailed notice would remain the same.

Mayor Thurmond asked how the fee increase of \$5 dollars per lot to \$10 dollar per lot for Platting/Development Fees had been justified. Mr. Skates responded Staff had felt this was justified; however, this certainly could be reconsidered.

Vice Mayor Eudey stated, in reference to his earlier inquiry about raising fees annually, he did not feel it was a good idea to raise fees simply because a certain amount of time had passed; fees should only be raised when cost was raised. City Manager Spurgeon concurred. Vice Mayor Eudey stated he wanted to remain competitive; he wanted individuals and businesses to view Broken Arrow as a viable affordable option for development. Mr. Skates stated he understood. City Manager Spurgeon stated he believed fees needed to be reviewed periodically; however, an increase in fees was not necessary annually.

Council Member Parks asked how the Platting/Development \$10 dollar per lot fee compared to Tulsa and surrounding areas. Mr. Skates responded he was uncertain. Vice Mayor Eudey stated he felt it was important the city had proper compensation for services provided; however,

it was also important to remain competitive. Discussion ensued regarding this fee increase, what similar communities charged, and remaining competitive.

Mr. Skates stated on page 9 a Small Cell Wireless Facility Fee had been added. He briefly discussed why this new fee for installation of 5G technology was necessary. Vice Mayor Eudey asked if this fee was charged when a wireless company attached specifically to a Broken Arrow utility pole, or to any pole. Mr. Skates responded this was for attachment to any pole; individual poles were being installed within the city's right-of-way.

Council Member Lester asked how often an 8 inch water meter tap was installed. Mr. Skates responded very rarely. Discussion ensued regarding how actual cost was determined, why the 8 inch water tap was treated differently than the smaller sizes, the Utility Company reviewing and approving the Water Meter Tap Fees, and the work that went into installation of water taps. Vice Mayor Eudey stated the 8 inch water meter tap fee could be amended to read actual cost plus 10%. City Manager Spurgeon stated he would research this and make a proposal to City Council.

Council Member Lester stated he felt the city was not charging high enough Cemetery Fees. He asked how the fees compared to long term actual cost. Director of General Services Lee Zirk responded the City of Broken Arrow was falling short to breaking even in terms of Cemetery Fees versus the cost to maintain the Cemetery. However, he stated, every time Cemetery Fees had been raised in the past there had been many complaints, particularly from funeral homes. Council Member Lester stated this was a service, and the city should not lose money on a service such as this. He explained surrounding area cemeteries charged one third more than Broken Arrow did; therefore, he felt if the Broken Arrow Cemetery was not breaking even then the fees needed to be adjusted. Vice Mayor Eudey asked if a survey had been done on the pricing of other municipal cemeteries. City Manager Spurgeon responded in the negative; not this year. Mr. Zirk stated a survey had been done last year and Broken Arrow was comparable in price or lower; however, it was important to remember the Broken Arrow Cemetery did not provide the same services as private cemeteries, such as large fountains and special landscaping. He stated the fees could be reviewed, a break-even point could be determined, and the fees could be raised to match this. Council Member Lester asked if the Fees went into a trust account for maintenance or just into the general fund. Comptroller Tom Cook responded 25% went into the Cemetery Care Fund for capital improvements, and the rest went to the General Fund. He stated the Cemetery's operating costs were covered by the General Fund. City Manager Spurgeon stated this matter would be researched and a proposal would be made before Council.

Mr. Skates reported at the top of page 11 a 5% increase was recommended in Contractor Registration Fees. He stated there were no increases in the License Fees. He stated the Medical Marijuana Grower, Processor, and Dispensary Fees had been added to the Manual of Fees. Council Member Lester asked if the Occupation Fee/Distiller License or the Occupation Fee/Rectifier (blended alcohol) had ever been applied for. Mr. Skates responded he was uncertain; however, he felt it had been on occasion. Council Member Lester asked why the fees for Distiller and Rectifier were higher than the Medical Marijuana Fees. Mr. Skates responded all of the Occupational Fees related to brewery licenses, distilleries, etc., were dictated by the ABLE Commission while the fees for Medical Marijuana came from the Medical Marijuana law. Council Member Debra Wimpee stated the low Medical Marijuana Application fee was concerning. She stated the State of Colorado charged \$40,000 to \$75,000 dollars for a dispensary fee, and she was worried the \$2,500 fee in Broken Arrow would encourage medical marijuana dispensaries to come to Broken Arrow. She stated she felt if the fees were raised to around \$10,000 it would prevent non-serious business owners who were not fully committed to improving the medical well-being of others from attempting to open a medical marijuana dispensary in Broken Arrow. Acting City Attorney Trevor Dennis stated he could not speak to Colorado's regulatory system; however, Broken Arrow was not able to assess a tax on Medical Marijuana Businesses. He explained the \$2,500 dollar fee was a fee Broken Arrow would recoup for the cost of processing the application. He stated if it truly cost \$10,000 to process the application, then it could be justified; however, after discussion with Development Services, and keeping in line with the regulatory scheme of the Department of Health, this was the fee determined. He stated the fee could be raised if it was determined the cost was actually higher. Discussion ensued regarding how the license fee had been determined, what the State fees were, how the city licensing fee compared to the State licensing fees, and the city's responsibilities in approving a license application. Council Member Lester asked if it was more cumbersome to go through the process of an application fee for a distillery than it was for marijuana. Mr. Skates responded in the negative. Council Member Lester asked if so, why the distillery fee was \$3,125 dollars and the marijuana fee was \$2,500 dollars. Acting City Attorney Dennis responded there was a specific provision in State Statutes which authorized the collection of \$3125 dollars by a municipality. He explained the fee was not required to be justified in terms of actual time, effort and work of processing the application. He reported he did not see any similar provision for marijuana application fees. An unknown Citizen stated State Question 788 said a city could not unduly charge a fee on top of what had already been paid and City Council should keep in mind that 55% of the voters, who would be

voting for City Council in the future, voted in approval of State Question 788. She asked the city to research Muskogee's fees. Acting City Attorney Dennis stated other city's fees had been investigated, and he respectfully asked that she allow the Council to continue its discussion. Council Member Lester stated he felt it was impossible to fully know what it would cost the city to process a Medical Marijuana Application. He asked if there was a checklist of items to be reviewed prior to application approval. Acting City Attorney Dennis responded in the affirmative; he reviewed what was contained on this checklist including criminal background check, age verification, location verification, State license verification, building and fire code compliance verification, etc. He stated he deferred to Mr. Skates in terms of actual cost of time spent to verify the required information. Council Member Lester stated he wanted to be certain that whatever the process was, Broken Arrow was covering the cost. Vice Mayor Eudey concurred. Council Member Parks commented Development Fees were not included in the \$2,500 Application Fee. He stated the process was the same as it was for most businesses; most businesses were required to obtain a State License and a City License prior to operation. Acting City Attorney Dennis concurred. Council Member Wimpee asked if the application fee was nonrefundable. Acting City Attorney Dennis responded in the affirmative.

Assistant City Manager of Operations Kenny Schwab reviewed Section 5, Utility Charges. He stated the Water Service Initiation Fee was a new fee, and was the same amount as the Water Service Transfer Fee (\$30 dollars). He briefly reviewed why this fee had been created. He stated the Water Transfer Fee for non-residents had been lowered from \$45 dollars to \$30 dollars. Council Member Lester asked why. Mr. Schwab responded there were very few non-resident water service transfers and it was deemed unnecessary to charge a higher fee for this service. Council Member Lester stated he felt it would be wrong if the residents of Broken Arrow ended up having to cover costs incurred by non-residents. Mr. Schwab stated the fee could remain \$45 dollars if Council desired. City Manager Spurgeon stated he was uncomfortable with the \$30 Water Service Initiation Fee. He stated he felt it was not welcoming to new residents. Discussion ensued regarding the Water Service Initiation Fee, the cost incurred by the city in initiating service, individuals being unhappy about paying the fee, the possibility of charging a lower fee, waiving the fee for customers with good credit, the consistency of having both the transfer fee and an initiation fee, the number of transfers annually, and the importance of covering the cost of services rendered. Council decided to keep the new Water Service Initiation Fee of \$30 dollars and the Non-Resident Water Transfer Fee of \$45 dollars.

Mr. Schwab stated the Meter Testing Charges for inside city limits was proposed to be increased to \$50 and would match the fee for outside city limit Meter Testing Charges. Council Member Lester asked if the meter was faulty then there was no fee. Mr. Schwab responded in the affirmative; if the meter was faulty it was charged out at no charge to the customer. City Manager Spurgeon suggested raising the Meter Testing Charge for outside city limits to \$65 dollars. Council agreed.

Mr. Schwab discussed the Charges Associated with Discontinuation of Water Service and the new fees listed. He explained the city experienced damage to equipment by customers and these new fees were an attempt to recover equipment repair and/or replacement cost. Council Member Wimpee asked if customers would be made aware of the fees. Mr. Schwab responded in the affirmative. Council Member Lester asked if homeowners were responsible for the fees, even if an outside party committed the vandalism. Mr. Schwab responded this type of vandalism typically occurred when a customer attempted to turn a meter back on after shut-off. Discussion ensued regarding determining who committed the vandalism and who was responsible for the fees.

Mr. Schwab stated a fee had been added to the Re-read and Leak Test Charges called the AMR Graph, a 24 hour graph displaying time of day volume usage, which clearly illustrated whether or not there was a leak. He stated the fee for the graph was \$75 dollars and would cover the cost to meet with the customer in the home to review the graph. He stated a first graph free situation could be considered. City Manager Spurgeon intimated he liked the idea of the first graph free.

Mr. Schwab stated the next group was Water Rates which were gradually being increased annually for five years (this was year three), as had been agreed upon previously. He stated the increase this year was 5.5% for the Water Rates and the Special Contract Water Rates. He distributed a handout which listed the Utility Rate History including Water Rates, Wastewater Rates, and Stormwater Rates, a comparison between FY2018 and FY2019, and customer water consumption. He stated Stormwater Fees increased by 9% and he reviewed these fees. Director of Engineering and Construction Alex Mills stated the increase in the Fee-in-Lieu of Detention rate increased from \$0.35 to \$0.40 per square foot which was higher than 9%; however, this was justified as it covered actual cost. He stated Tulsa charged \$0.74 per square foot. Mr. Schwab stated Sanitary Sewer Rates increased by 7% and he reviewed these fees. He stated there were no other changes in Section 5.

Director of Parks and Recreation Scott Esmond stated the Parks and Recreation Department recommended a \$5 dollar rate increase in the Ray Harral Nature Center Meeting Room as demand had increased for this room. He reported this would bring the meeting room fee in line with other meeting facilities. He stated the next change would be under Shelters, as there were new shelters available for reservation in Events Park and Leisure Park. He reported there were some minor adjustments in Battle Creek Golf Course Fees. He explained the fees reflected a change from a tax included fee to a fee plus tax system which made rates slightly less expensive. He stated there were no other changes in the Parks and Recreation section.

Council Member Parks asked if the Fire Department had a good track record when it came to collecting the \$700 dollar per truck per hour fee for Fire Protection Services outside of city limits. Fire Chief Jeremy Moore responded in the negative. He stated he did not know if the Fire Department had invoiced any citizen since he had become Fire Chief. He stated there was confusion regarding whether this was the Fire Department's responsibility. He stated he and Police Chief Berryhill had spent some time at the Senior Center doing a question and answer session and Fire Service Fees was one of the big concerns and misunderstandings. He stated he felt if the city determined to aggressively pursue collection of fees for these services a public education campaign should be conducted. Vice Mayor Eudey asked if this was necessary as the fees were for non-residents. Chief Moore responded in the affirmative. He explained the Fire Department was different from the Police Department, in that the Fire Department's territory covered 100 square miles, not just within city limits like the Police Department. Council Member Parks asked if a subdivision outside of city limits had a house fire, and the Fire department responded would the city be reimbursed for the service. Chief Moore responded in the negative. He stated if a citizen who was outside city limits had a house fire, and the Broken Arrow Fire Department responded, then the city had the right to invoice that citizen for service. City Manager Spurgeon reported consideration was being made regarding adoption of a subscription program, by way of annual fee, for citizens outside of the city limits, but within the Fire Department's territory. He explained if a citizen in this situation chose to pay the annual fee then service would be free; however, if not then Broken Arrow could charge for Fire Services. Council Member Parks stated it was unfair to the citizens of Broken Arrow who were paying for Fire Services through the various taxes that the citizens outside of city limits were receiving basically free Fire Service. City Manager Spurgeon stated this was being addressed and he was currently investigating a solution to present before City Council for review. Council Member Wimpee stated she felt citizens who fell into this "no-man's land" would appreciate a subscription service which would guarantee assistance if an emergency was to arise. Discussion ensued regarding the subscription service, inclusion of everyone outside city limits, the importance of finding a solution to this problem, and public education in this regard.

City Manager Spurgeon stated, in conclusion, Staff was going to compile comparisons on the platting and development fees for council, research the 8 inch meter fees and cost, look at Cemetery Fees to determine how an increase to break even, and would further research the possibility of a subscription service for Fire Services outside of the city limits.

4. Adjournment

The meeting adjourned at approximately 6:17 p.m.

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

Move to adjourn

The motion carried by the following vote:

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

Attest:

Mayor

City Clerk