



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 Johnnie Parks
Council Member Debra Wimpee
Council Member Christi Gillespie

Monday, June 17, 2019

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

Invocation was performed by Pastor John Winstead.

3. Roll Call

Present: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

4. Pledge of Allegiance to the Flag

Vice Mayor Scott Eudey 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. City Manager Spurgeon requested Item Q be removed from the Agenda.

MOTION: A motion was made by Scott Eudey, seconded by Christi Gillespie.

Move to approve the Consent Agenda less Item Q

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

- A. 19-12** Approval of the City Council Meeting Minutes of June 3, 2019
- B. 19-767** Approval of the City Council Emergency Meeting Minutes of June 7, 2019
- C. 19-743** Approval of the Payroll and Benefit Calendar for Fiscal Year 2019-2020
- D. 19-768** Approval of and authorization to execute Budget Amendment Number 8 for Fiscal Year 2019
- E. 19-765** Approval of and authorization to repeal the 2005 City of Broken Arrow Annexation Policy and Procedure Manual
- F. 19-714** Approval of and authorization to execute the Exacom Refresh contract and Budget Amendment #7 for transfer of fund - Exacom Refresh Project
- G. 19-798** Approval of and authorization to execute a Second Renewal and Amendment to City of Broken Arrow Golf Course Professional Management Services Agreement with Greenway Golf Partners, LLC. on City Owned Land known as the Battle Creek Golf Course
- H. 19-745** Approval of and authorization to execute a proposal with United States Fire Insurance Company to provide specific and aggregate re-insurance coverage for the employee health plan for fiscal year 2019-20
- I. 19-737** Approval of and authorization to purchase the Fiscal Year 2019-20 Property and General Liability coverage policy with Oklahoma Municipal Assurance Group for the city-owned building occupied by Bass Pro Shops
- J. 19-738** Approval of and authorization to purchase the Fiscal Year 2019-20 Battle Creek Golf Course Business Insurance Policy with Central Insurance Companies
- K. 19-739** Approval of and authorization to execute the purchase of the Fiscal Year 2019-20 Citywide Property Insurance Policies with the Oklahoma Municipal Assurance Group and Chubb Insurance
- L. 19-784** Approval of and authorization to execute a Professional Transportation Services Contract with the Metropolitan Tulsa Transit Authority (Tulsa Transit) to provide public transportation services for Fiscal Year 2019-20
- M. 19-730** Award the most advantageous bid to Admiral Express for the purchase of office supplies on a City wide basis
- N. 19-720** Award the most advantageous bid to Southwest Trailers & Equipment for the purchase of one (1) Monroe LDS333-250 Pre-Wet System for the Streets and Stormwater Department
- O. 19-748** Award the most advantageous bid to Storey Wrecker, and approve and authorize execution of a contract for wrecker services
- P. 19-774** Award the lowest responsible bid to Cherokee Pride Construction, Inc. and approve and authorize execution of a construction contract for the Concrete Panel Replacement

Street Repairs at Various Locations (Project No. ST1910, ST1912, ST1917, ST1918, ST1919 & ST1920)

- Q. 19-773 Approval of and authorization to execute Resolution No. 1227, a Resolution authorizing acceptance of a General Warranty Deed for Parcel 2, which consists of 0.012 acres of permanent Right-of-Way for the Olive Avenue Waterline, Tucson to New Orleans generally located on Olive between Tucson and Florence in the Southeast Quarter of Section 32, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from The Swindell Family Living Trust and authorization of payment in the amount of \$5,800.00 for the Olive Waterline, Tucson to New Orleans, Parcel 2. (Project No. WL1610)
- R. 19-777 Approval of and authorization to execute Resolution No. 1228, a Resolution authorizing acceptance of a General Warranty Deed for Parcel 3, which consists of 0.012 acres of permanent Right-of-Way for the Olive Avenue Waterline, Tucson to New Orleans generally located on Olive between Tucson and Florence in the Southeast Quarter of Section 32, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from Robert H. Johnson, LLC, an Oklahoma limited liability company and authorization of payment in the amount of \$6,120.00 for the Olive Waterline, Tucson to New Orleans, Parcel 3. (Project No. WL1610)
- S. 19-776 Approval of and authorization to execute Resolution No. 1229, a Resolution authorizing acceptance of a General Warranty Deed for Parcel 1, which consists of 0.75 acres of permanent Right-of-Way for the Olive Avenue Waterline, Tucson to New Orleans located at the Northwest corner of Olive and Tucson in the Southeast Quarter of Section 32, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from Sanford Properties, Ltd., Gordona A. Duca, and Avonna Xylta Dee Hausam, the owners, and authorization of payment in the amount of \$28,000.00 for the Olive Waterline, Tucson to New Orleans, Parcel 1. (Project No. WL1610)
- T. 19-778 Approval of and authorization to execute Resolution No. 1233, a Resolution authorizing the acceptance of a Special Warranty Deed for Parcel 2A, consisting of 0.97 acres of permanent Right-of-Way for 37th Street Improvements, Albany to Houston, located in the Northeast Quarter of Section 6, Township 18 North, Range 15 East, Wagoner County, State of Oklahoma, from The Betty Ann Mockley 1992 Revocable Trust Dated October 20, 1992 and Robert E. Mockley II and authorization of payment in the amount of \$28,200.00 for the 37th Street Improvements: Albany to Houston, Parcel 2A, (Project No. ST1413)
- U. 19-771 Approval of and authorization to execute Resolution No. 1234, a Resolution authorizing the acceptance of a Special Warranty Deed for Parcel 3A, consisting of 0.989 acres of permanent Right-of-Way for 37th Street Improvements, Albany to Houston, located in the Northeast Quarter of Section 6, Township 18 North, Range 15 East, Wagoner County, State of Oklahoma, from The Betty Ann Mockley 1992 Revocable Trust Dated October 20, 1992 and Robert E. Mockley II and authorization of payment in the amount of \$28,700.00 for the 37th Street Improvements: Albany to Houston, Parcel 3A, (Project No. ST1413)
- V. 19-781 Approval of and authorization to execute Resolution No. 1239, a Resolution authorizing acceptance of a General Warranty Deed for Parcel 9.0, which consists of 0.0616 acres of permanent Right-of-Way and Parcel 9.1 which consists of 0.0138 acres of Temporary Construction Easement for the Broken Arrow Creek Trail located at Northwest corner of First Place and New Orleans, Broken Arrow in the Southwest Quarter of Section 23, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from Roland Investments, Ltd. and authorization of payment in the amount of \$9,525.00 for the Broken Arrow Creek Trail, Phase 1, Parcel 9.0, 9.1. (Project No. 146020)
- W. 19-782 Approval of and authorization to execute Resolution No. 1243 a Resolution authorizing acceptance of a Corrected General Warranty Deed for Parcel 7, which consists of 0.03 acres of permanent Right-of-Way for Washington Street Improvements, Garnett to Olive, in the Southwest Quarter of Section 17, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from Lisa M. Winham, Parcel 7 (Project No. ST1616)
- X. 19-787 Approval of and authorization to execute Resolution No. 1245, a Resolution authorizing acceptance of a General Warranty Deed for Parcel 1.0, which consists of 0.0214 acres of permanent Right-of-Way and Temporary Construction Easement for Parcel 1.1 which consists of 0.0308 acres for the Old Town Streets, Ash Avenue and College Rehabilitation, generally located 121 W College Street, Broken Arrow in Lot 5, Block 35, "ORIGINAL TOWN OF BROKEN ARROW" a part of the West Half of Section 11, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from BA Vesper, LLC, for Old Town Streets, Parcel 1.0, 1.1. (Project No. ST1711)
- Y. 19-788 Approval of and authorization to execute Resolution No. 1246, a Resolution authorizing acceptance of a General Warranty Deed for Parcel 5, which consists of 0.0332 acres of permanent Right-of-Way for the Broken Arrow Creek Trail located at 4021 South Ash Avenue, Broken Arrow in the Northwest Quarter of Section 26, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from Douglas and Jaylene Farry and authorization of payment in the amount of \$9,150.00 for the Broken Arrow Creek Trail, Phase 1, Parcel 5. (Project No. 146020)
- Z. 19-759 Acceptance of a Utility Easement from Cathleen Doyle on a portion of a 3.1-acre unplatted property approximately one-half mile north of New Orleans Street (101st

- Street), one-quarter mile west of 23rd Street (193rd E. Avenue/County Line Road), shown as Plat of Survey, Tulsa County, State of Oklahoma (Section 24, T18N, R14E)
- AA. 19-761 Acceptance of a Utility Easement from Cathleen Doyle on a portion of a 2.0-acre unplatted property approximately one-half mile north of New Orleans Street (101st Street), one-quarter mile west of 23rd Street (193rd E. Avenue/County Line Road), shown as Plat of Survey, Tulsa County, State of Oklahoma (Section 24, T18N, R14E)
- AB. 19-658 Acceptance of a Utility Easement from BA Corner, LLC on a portion of unplatted property approximately one-quarter mile east of Aspen Avenue (145th East Avenue), north of Tucson Street (121st Street South), shown as Exhibit A (Section 34, T18N, R14E) (BA Corner)
- AC. 19-791 Acceptance of a Utility Easement and Temporary Construction Easement for Parcel 19, 19.1, located in the Northeast Quarter of Section 36, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from the SF Properties, LLC, authorizing payment in the amount of \$7,660.00 for the for the County Line Trunk Sewer Replacement, Parcel 19, 19.1 (Project No. S.1609)
- AD. 19-792 Acceptance of a Utility Easement and Temporary Construction Easement for Parcel 20, 20.1, located in the Southeast Quarter of Section 25, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from the Snead Family 2010, LLC, authorizing payment in the amount of \$44,060.00 for the for the County Line Trunk Sewer Replacement, Parcel 20, 20.1 (Project No. S.1609)
- AE. 19-772 Acceptance of Temporary Construction Easements consisting of 1.39 acres and 0.67 acres from William B. Rogers, on property located at the Southeast Quarter of Section 36, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, and authorization for payment in the amount of \$2,700.00 for the County Line Trunk Sewer Replacement, Parcel 11.1, 11.2 (Project No. S.1609)
- AF. 19-749 Acceptance of a Deed of Dedication from Stonetown Johanna Woods, LLC on a portion of unplatted property approximately one-half mile east of 23rd Street (193rd E. Avenue/County Line Road), south of Omaha Street (51st Street), shown as Exhibit A, Wagoner County, State of Oklahoma (Section 31, T19N, R15E)
- AG. 19-718 Approval of BAZ-2027, Callaway Project, 7.03 acres, A-1 (Agricultural) to RD (Residential Duplex), one-eighth mile south of Jasper Street (131st Street), east of Olive Avenue (129th E. Avenue)
- AH. 19-719 Approval of BAZ-2028, Callaway Parking Lot, 0.72 acres, DROD Area 5 (Downtown Residential Overlay)/R-3 (Single-Family Residential), ON (Office Neighborhood), and PUD-242 (Planned Unit Development) to DROD Area 5 (Downtown Residential Overlay)/ON (Office Neighborhood), on the northeast corner of Detroit Street and First Street
- AI. 19-754 Approval of BAZ-2029, Doyle Rezoning, 5.10 acres, A-R-E (Annexed- Residential Estate) to RE (Residential Estate), one-third mile north of New Orleans Street (101st Street), one-quarter mile west of 23rd Street (193rd E. Avenue/County Line Road)
- AJ. 19-731 Approval of PT19-100, Conditional Final Plat, Broken Arrow Public Schools, Elementary No. 16, 1 lot, 38.734 acres, A-1, one-half mile north of New Orleans Street, one-half mile west of 51st Street (Evans Road/225th E. Avenue)
- AK. 19-732 Approval of PUD-161H (Planned Unit Development, Major Amendment), Savvy Swimmers, 0.87 acres, PUD-161/CG (Commercial General), located one-eighth mile east of Olive Avenue (129th E. Avenue), north Kenosha Street (71st Street)
- AL. 19-799 Approval of and authorization to place temporary directional signs at designated Rights-of-Way for the 2019 Parade of Homes starting June 17, 2019 and removal no later than June 26, 2019; Signs may not be placed in site triangles nor obstruct vehicular or pedestrian traffic flow
- AM. 18-1441 Approval of the Broken Arrow City Council Claims List for June 17, 2019

6. Consideration of Items Removed from Consent Agenda

Mayor Thurmond stated Item Q would be tabled until the next City Council Meeting.

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

Move to table Item Q until the next City Council Meeting

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

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

A. 19-645 Presentation by the Mayor of the Carnegie Medal of Honor to Broken Arrow Citizen Kali Allen

Mayor Thurmond stated the Carnegie Medal of Honor award was established in 1904 and a Hero Fund Commission was created to recognize outstanding acts of selfless heroism performed in the United States and Canada. He reported the Commission awarded the Carnegie Medal to those who risked their lives to an extraordinary degree while saving, or attempting to save, the lives of others. He stated on January 4, 2018 Citizen Kali Allen attempted to rescue 55-year-old Jeffrey K. McIlroy from drowning in Catoosa, OK, and gave the details of the attempted rescue. He commended Mr. Allen for his heroic effort and presented Mr. Allen with the Carnegie Medal of Honor.

B. 19-806 Presentation and discussion of the Scope of Services for a Transit Study presented by Tulsa Transit and possible approval and authorization for the City Manager to execute an agreement with Tulsa Transit for the Transit Study

Assistant City Manager of Administration Russell Gale reported he and Ted Rieck, General Manager of Tulsa Transit, had discussions regarding methods to identify, improve, and modernize Broken Arrow's public transportation system. He introduced Mr. Ted Rieck.

General Manager of Tulsa Transit Ted Rieck reported Tulsa Transit began providing service in Broken Arrow in 2005 and had not changed much since then. He stated in an effort to update services a Transit Study would be performed, engaging stakeholders in the Community. He noted Transit should help the Community in a meaningful way, perhaps by bringing in needed workers, reducing parking problems in the Rose District, or attracting the millennial work force. He gave examples on how Broken Arrow would benefit from Public Transit: Education (Tulsa Tech students received free bus passes), Hospitality, and Economic Development (providing service to the Amazon Distribution Center). He reported a new bus Rapid Transit line was being developed on Peoria and would be the first Bus Rapid Transit System in the State of Oklahoma. He noted all bus routes were being redesigned to ensure quicker rides with more direct connections. He displayed a map which showed the proposed new bus route system. He noted he hoped to be able to better connect Broken Arrow to the overall public transit system, enabling individuals to quickly and conveniently get to and from Broken Arrow. He reported the Tulsa Transit System was looking to the future and exploring autonomous vehicles (driverless buses) and ride hailing agencies such as Lyft. He reported technology was being upgraded with a mobile phone app. He stated the proposed Study would help determine how and where Tulsa Transit Services might be best used in Broken Arrow. He reported the Study itself would cost just under \$50,000 dollars, 80% of which would be covered by Tulsa Transit through Federal Grants and he asked the remaining 20% of just under \$10,000 dollars be covered by the City of Broken Arrow.

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

Move to approve and authorize the City Manager to execute an agreement with Tulsa Transit for the Transit Study

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

C. 19-724 A public hearing and consideration, discussion, and possible action regarding PUD-288 (Planned Unit Development) and BAZ-2024 (Rezoning), Village at 1Eleven, 28.95 acres, A-1 (Agricultural) to CM (Community Mixed-Use) and RS-4 (Single-Family Residential)/PUD-288 (Planned Unit Development), located at the northwest corner of Florence Street (111th Street) and Aspen Avenue (145th E Avenue)

Acting Director of Development Services Larry Curtis explained this was an appeal of a Planning Commission recommendation. He reported on May 9, 2019, the Planning Commission, by a vote of 2 to 2, enacted a de facto vote of no to approve the above PUD-288 and BAZ-2024. He stated the applicant, through zoning ordinance, requested an appeal to City Council on May 10, 2019. He stated in regards to the Planning Commission hearing held on May 9, 2019, there was a petition filed with the Planning Commission with 162 total signatures, 144 original signatures and 18 duplications. He stated Title 11, Section 43-105.2, stated if the owners of 50% or more of the area of the lots within 300 feet of the radius of the exterior of the boundary of the territory included in the proposed change signed a petition, a majority vote of City Council (three fifths) was required to pass the PUD/BAZ.

Mr. Curtis stated there were two items City Council were required to consider: did the rezoning request meet the requirements of the Zoning Ordinance and did the PUD meet the requirements of the Zoning Ordinance. He stated in order for rezoning to be approved it must meet five requirements: 1) The rezoning promoted public health safety and general welfare of the community; 2) The rezoning was consistent with the Comprehensive Plan and the purpose of the ordinance; 3) The rezoning was consistent with the stated purpose of the proposed zoning district; 4) The rezoning was not likely to result in significant adverse impact upon the property in the vicinity of the subject tract; and 5) Future uses on the subject tract would be comparable in scale with the uses on other properties in the vicinity of the subject tract. He stated regarding Planned Unit Developments, there were five criteria, only one of which must be met by State Statute and by zoning code: 1) To permit and encourage innovative land development while maintaining appropriate limitation on the character and intensity of use and assuring compatibility with adjoining and proximate properties; 2) To permit greater flexibility within the development to best utilize the physical features of the particular site in exchange for greater public benefits than would otherwise be achieved through development under this Ordinance; 3) To encourage the provision and preservation of meaningful open space; 4) To encourage integrated and unified design and function of the various uses comprising the planned unit development; and 5) To encourage a more productive use of land consistent with the public objectives and standards of accessibility, safety, infrastructure and land use compatibility. He explained at the close of the hearing, City Council could approve, approve with modifications, deny, or return the application to the Planning Commission for further consideration.

Acting Director of Development Services Larry Curtis displayed a map which illustrated the proposed location of the rezoning request, on the northwest corner of Florence and Aspen Avenue. He reported the current zoning of surrounding property was majority Agricultural with Residential and associated Commercial; current zoning of the property was Agriculture with Residential to the north and south, with Commercial adjacent across Aspen. He stated the applicant proposed to change the zoning from Agriculture (A1) to RS-4 (Single Family Residential District) and proposed to rezone a portion from A1 to CM (Community Mixed Use). He stated under the Comprehensive Plan the City of Broken Arrow followed the Land Use Intensity Classification System (LUIS). He displayed maps which showed how the densities and changes of uses were located throughout the City. He stated the property in question was Level 3 and Level 4 in the Comprehensive Plan and as such the proposed zoning change was consistent with the Comprehensive Plan. He displayed a map which illustrated the conceptual site plan presented to the Planning Commission as part of the PUD packet which included 60 residential lots and commercial mixed use development along Aspen Avenue and Florence. He stated a meeting was held April 23, 2019 at the Baptist Church with Broken Arrow Citizens to gain knowledge regarding Citizen's concerns, following which the applicant made modifications to the conceptual site plan. He noted concerns were associated with the stub streets locations; therefore, the applicant moved the stub streets. He stated it was confirmed with Fire Marshall required connectivity was met for Public Safety purposes. He stated the conceptual site plan was only conceptual; the text of the PUD was what was relevant and would guide the developer. He displayed the new conceptual site plan which reflected the single family residential area, the multifamily apartments, and the commercial development.

Mr. Curtis reported following the meeting between the developer and the citizens, the developer removed some items from the design. He noted CM zoning district permitted multifamily dwelling units, apartments, restaurants without drive-through, general retail, office, convenience store, and gas sales, but excluded pawn shops, medical marijuana, bail bonding and check cash/payday lenders. He reviewed the lot size requirements and set back requirements. He discussed landscaping requirements and noted the applicant proposed a shared park and club house between development area A and development area B with pedestrian connections provided. He stated the multifamily area would be limited to 195 units with a height restriction of two and a half stories. He reported development area B (RS-4) uses permissible by right included single family detached housing and uses customary to the permitted uses. He stated the maximum number of lots was 75 units and lot width was reduced from 55 feet to 50 feet. He reported the maximum building height would be in accordance with zoning district. He stated front building setbacks were reduced from 20 feet to 15 feet for the main building façade, but remained 20 feet for garages. He stated the applicant also requested back yard setback modifications to allow for garages and drives, and proposed an alleyway to allow rear entrance access to garages. He stated streets within the development were proposed private, and each residential lot was permitted an accessory dwelling unit, while subdivision entrances would have 32 square feet of signage at a maximum 8 foot height in accordance with zoning ordinance.

He noted questions arose regarding the proposed widening between Olive and Aspen. He reported the plans were 95% complete, right of way acquisition was complete, the City had asked utilities to move the utility lines, and this project should be out to bid in 4 to 5 months with a completion date hopefully by 2021. He displayed a map which illustrated the widening.

Mr. Curtis stated there was a question about similar RS-4 developments in Broken Arrow. He reported RS-4 zoning was relatively new and limited as not many applications had been submitted for this zoning, and no applications for CM zoning had been submitted; however, he believed this was due to a lack of developer education and the newness of the CM zoning type. He discussed RS-4 zoning history and discussed the five RS-4 zoning developments (or similar) within Broken Arrow.

He stated upon review of this application Staff determined the proposed rezoning met all five rezoning requirements while four of the five PUD requirements were met (only one was required to be met).

Vice Mayor Scott Eudey stated there was an incline heading west on Aspen. He asked how this development would impact this incline. Assistant City Manager Kenny Schwab responded Engineering Staff completed a "site distance" or "site triangle" survey which ensured there was proper visibility from the entrance of the development and there was enough time to pull out at proper speeds. He explained while there was an incline, the entrance was required to be positioned to enable visibility. Vice Mayor Eudey asked if all egress/ingress entrances were required to comply with the "site triangle" provision. Mr. Schwab responded in the affirmative.

Mr. Curtis stated the question was raised during the Planning Commission Meeting regarding

the entrance's proposed alignment with the entrance to the Chestnut development. He explained zoning ordinance required drives and streets aligned to ensure best visibility. He stated the entrances to the commercial portion of the development would comply with zoning ordinance.

Council Member Johnnie Parks noted all four intersections had the same type of layout as other intersections in Broken Arrow. Acting Director of Development Services Larry Curtis concurred. He stated specifically, across the street, there was a Casey's approved for development on the northeast corner of Aspen and Florence. He explained this was Level 4 in the Comprehensive Plan and CG zoning was already in place in this location. He stated the southwest corner was also Level 4 and development of a church and commercial out-parcels was being considered. Council Member Parks noted typically Level 3 would be a buffer type area between commercial and residential, but he noted there were apartments in the commercial area with houses in the buffer zone of Level 3. He stated he understood Level 3 allowed duplexes, multifamily, mobile home, and neighborhood mixed use. Mr. Curtis concurred and explained where the single family development was being proposed the additional zoning uses (duplexes, multifamily, etc.) could have been requested. He reported each lot in the proposed single family development met RS-3 lot area zoning standards and provided a buffer between the existing RS-2 zoning to the north and the CM zoning district.

Council Member Parks asked if this PUD were approved, would there be an opportunity for City Council to see a more detailed site plan prior to development. Mr. Curtis responded if the PUD and rezoning were approved the applicant would be required to plat the property prior to ordinance codification. He explained the preliminary plat was the first step; this was an in-depth plan prepared by an engineering firm, including conceptual utilities, and requiring approval from the Planning Commission. He stated once the preliminary plat received approval the conditional final plat would be developed including all engineering (stormwater, utilities, roads, etc.). He explained the conditional final plat would be reviewed and approved by the Planning Commission prior to presentation to City Council. Council Member Parks asked how much commercial and how much multifamily was proposed. Mr. Curtis responded the applicant would be better able to answer this question. Council Member Parks discussed the road incline and visibility, as well as entrance alignment. He stated he felt it would be safer for there to be a larger setback at the entrance. Mr. Curtis stated City Council had the right to make this a requirement.

Vice Mayor Eudey stated he understood, upon study of the Comprehensive Plan, "hard corners" or major arterial corners, would be reserved for commercial development, the area behind the hard corner would be transitional, such as higher density residential or office space, followed by lower density residential. He noted, with that in mind, if this were approved, he wished to see some assurance the hard corner development would be commercial. Mr. Curtis agreed.

Council Member Christi Gillespie asked if City Council could specify the percentage of commercial development required. Mr. Curtis responded in the affirmative. Council Member Gillespie noted a convenience store was still included in the current PUD packet and she asked if this could be removed. Mr. Curtis responded in the affirmative; the convenience store use could be prohibited; however, he encouraged discussion with the developer prior to making this type of prohibition as in the future there could be a need for this type of use. Council Member Gillespie asked which portion of the development would be constructed first. Mr. Curtis responded he believed the residential portion would be developed first, but this was a question better answered by the developer.

Council Member Parks commented PUD developments were to the City's advantage. Mr. Curtis agreed.

Council Member Wimpee stated she wished the Planning Commission had shared the reasoning for the no votes. Mr. Curtis indicated of the two Commissioners who voted no, one stated he felt the citizens presented valid concerns, while the other Commissioner did not believe the proposed use was appropriate for the location. He noted one of the Commissioners who had voted no had resigned.

The applicant, Lou Reynolds, stated his address was 2727 E. 21st Street, Tulsa, OK 74114. He stated he represented the developer and applicant Daniel Ruhl for the Village at 1Eleven project. He stated Aspen was a major arterial road which was to be widened to five lanes which he felt indicated the area was intended to be developed. He stated Florence would be widened as well which would dovetail rather nicely with the intended project. He stated he heard concerns regarding safety near the school; however, there would be a crosswalk and signalized intersection at the school. He stated he believed the City of Broken Arrow had excellent infrastructure to support this project. He noted directly to the east was CG zoning with no PUD restrictions. He stated this project was at an unusual point where the architectural work was catching up with the engineering work. He stated the RS-4 zoning area at this point was reduced to 65 lots, which could be reflected in the PUD. He noted the

lot area of each of the 65 lots exceeded 7,000 square feet, the minimum lot size for RS-3 zoning. He noted there were 3.99 units per acre in this area while immediately to the north the area had 3.8 units per acre, and a half mile north the development had 9.4 units per acre. He displayed a map illustrating the dwelling units per acre in the surrounding developments which indicated his proposed development had a compatible density for the area. He displayed map which illustrated surrounding development and growth. He displayed the most recent conceptual site plan. He stated approximately 25% would be commercial office/mixed use. He noted he originally applied for 195 multifamily units; code allowed 286 units, but this number could be reduced to 185 multifamily units in the PUD. He stated the developer was working hard to develop a unique product. He noted the PUD capped the height to 35 feet in development area A, development area B would have private gated streets maintained by the HOA, and there were three letters of intent for the Commercial area including a bakery, restaurant, and a day care center. He stated the connectivity was unique in that there was both vehicular and pedestrian connectivity throughout the development. He stated the intended landscaping met Broken Arrow zoning code and exceeded it in several areas. He noted there was 10 feet of landscaping along the north boundary of development area A, 10 feet of landscaping along the west boundary, and 20 feet of landscaping along the south border of development area B, all of which exceeded Broken Arrow landscaping zoning code. He noted there were stormwater detention ponds in several locations on the property which were both utilitarian and aesthetically pleasing with fountains and landscaping. He noted there would be a shared park, clubhouse, and pool. He displayed and discussed conceptual design illustrations. He stated the Village at 1Eleven was planned as a walkable mixed use community with shared amenities and functional connectivity. He distributed a map to the City Council Members which indicated the following changes: 65 units in the single family residential, 185 units in the multifamily, 25% commercial/mixed use in development area A, and a 20 foot landscaping buffer on the south border of development area B (single family residential). He respectfully requested City Council approve the rezoning and PUD as requested by Staff and as amended.

Council Member Wimpee asked if there was a letter of intent for a doctor's office. Mr. Reynolds responded in the negative; not to his knowledge. Vice Mayor Eudey asked if Mr. Reynolds was prepared to amend the PUD to reflect the changes mentioned above. Mr. Reynolds responded in the affirmative.

Council Member Parks asked where the back alley for garage entrances was located. Mr. Reynolds pointed the alley out on the map. Council Member Parks indicated he liked the alley concept.

Vice Mayor Eudey asked what the difference between a flat and an apartment was, as the multifamily units in this development were referred to as flats. Mr. Reynolds stated "flat" was just another name for an apartment. He noted what made the apartments different were the building styles which were block-style, flat roofed, and broken up with parks and ponds. Council Member Parks asked about the flat roof. Mr. Reynolds responded the flat roof gave the development an urban look.

Council Member Gillespie asked if the single family residential area would be a gated community. Mr. Reynolds responded he was unsure, but he did not believe it would be; there would be gates between the commercial area and the residential area which residents would have access to. Council Member Gillespie asked about the order of phased construction. Mr. Reynolds responded the single family homes would be constructed first, but he was unsure whether the commercial or commercial/mixed use area would be built next.

Vice Mayor Eudey asked what the price point was for the single family residential homes. Mr. Reynolds responded he was unsure, but it would be substantial. He stated looking at the architectural renderings it was easy to see these were not inexpensive homes. Council Member Gillespie asked what homes in his previous developments had cost. Mr. Reynolds responded the developer had constructed many different size homes in different locations, but had never constructed inexpensive homes.

Mayor Thurmond asked if there were further comments or questions from City Council. Hearing none, he opened up the Public Hearing. He indicated as a public body, City Council expected respectful court room decorum; no cheering or booing, speakers were to address the Council as a whole with a three minute time limit per speaker. He asked speakers to not reiterate points made by previous speakers. He asked all speakers to give a name and address.

Citizen Greg Genua stated his address was 4329 South Chestnut Avenue, Broken Arrow. He stated he requested a denial on this matter. He stated absent a denial decision he respectfully requested a 90 day continuance, and/or a referral back to the Planning Commission. He stated City Council received several action requests, over 20 individuals registered to speak in opposition, nearly 100 individuals registered opposition. He stated numerous petitions in opposition had been properly and officially registered with the City Clerk, most recently on

Friday, June 14th which should be included in the record. He stated City Council would benefit from extra time to consider the home owners directly affected by this development, and to thoroughly review the substantial volume of information. He stated a continuance would allow Broken Arrow City Officials to fully consider the negative economic impact of this PUD proposal on the Elm and New Orleans revitalization project. He stated the proposed walkable village concept design had merit, but in another location such as 101st and Elm. He stated the developer promoted its PUD-288 through a social media campaign targeting friends, relatives, employees and financial investors of the developer. He stated the developer should have a sit down conversation with homeowners and any affected close proximity home owner associations.

Citizen Jerry Agee stated his address was 5208 Chestnut Avenue, Broken Arrow. He stated the residents of the surrounding subdivisions expressed opposition to the proposed development due to the high density of people, high probability of diminished property values, and likelihood of increased crime rate. He stated he was not opposed to this type of development, but it was not a good fit for the area. He stated the City addressed a letter to the residents within a 300 feet radius and these residents signed a petition in opposition which was on file with the City of Broken Arrow. He noted a second petition was signed and delivered to the City of Broken Arrow by residents of Grey Oaks, Aspen Park, Waterford and the neighborhood just west of Grey Oaks. He stated this should be enough to convince City Council to deny the project. He stated he did not dislike City Council as individuals, but the development was not affecting the City Council's residences and the City Council had a responsibility to be responsive to the individuals who were affected. He stated it was City Council's fiduciary responsibility not to be swayed by individuals who did not live in Broken Arrow and developers with high pressure tactics. He stated all residents who signed the petitions requested City Council to deny the rezoning and development.

Citizen Richard Crain stated his address was 4336 South Chestnut Avenue, Broken Arrow. He thanked the City Council for allowing him to speak. He stated he lived less than 300 feet from the proposed development and he opposed the zoning change. He stated this would negatively affect the revitalization of the 101st and Elm by allowing competition retail store locations. He stated there were currently 18 vacant small, medium and large retail locations, as well as several small office vacancies in the revitalization area. He stated there was no need for a convenience store in this location as there were three located nearby. He stated the revitalization project called for the same architectural character as existing homes and neighborhoods, a requirement this development did not meet. He noted the project was called "experimental" and might be better located closer to the Warren Theater. He stated he worried the development would cause significant traffic problems in the area, specifically causing traffic accidents. He stated there were not sufficient engineering studies regarding stormwater in the area; he did not believe the two small retention ponds would be sufficient. He stated he was not against growth in the area, but felt RS-2 or RE zoning was more appropriate. He stated if the Broken Arrow Planning Commission did not approve the rezoning, City Council should not approve the rezoning.

Mayor Thurmond commented this was a rezoning hearing, not an engineering hearing.

Citizen Sam Crenshaw stated his address was 2313 West Austin Street, Broken Arrow. He stated his wife and he were relatively new home owners who chose the area to avoid the cookie cutter neighborhoods and because the neighborhood was small and relatively quiet. He stated he was a police officer in the City of Tulsa. He reported he primarily worked in the 41st and 129th area in Tulsa, and since January 2019 there had been 441 reported crimes in this area. He noted the 41st and 129th area was zoned similarly to the proposed rezoning. He stated the crimes included vandalism, burglary of vehicles, burglary of dwellings, rape and four reports of homicide. He stated the proposed development looked nice on paper, but he did not feel it was a good fit for the area. He stated he understood the area might be rezoned, he only hoped it would be rezoned to RS-2 or RE.

Vice Mayor Eudey asked if Mr. Crenshaw wished only the residential area to be zoned RS-2 or the property in its entirety. Mr. Crenshaw responded the residential area. Vice Mayor Eudey asked about the apartments. Mr. Crenshaw responded he wished the apartments to be zoned RS-2 as well. Vice Mayor Eudey asked if Mr. Crenshaw felt it was acceptable to have commercial zoning for the hard corner. Mr. Crenshaw responded in the affirmative; he stated he worried most about the high density areas, as high density areas invariably brought more crime.

Citizen Patricia Gaddis stated her address was 2317 West Austin Street, Broken Arrow. She thanked City Council for its service. She noted she always knew the land behind her home would be sold. She reported many years ago she approached the land owner regarding purchasing a tract behind her home to use as a buffer to any future development; unfortunately, the landowner refused to divide the acreage. She stated she agreed south Broken Arrow needed development; however, she objected to the proposed densely populated development. She stated her family's way of life would be dramatically affected

by this development in terms of noise and traffic. She stated she approved of RS-2 zoning and stated Daniel Ruhl's developments further south on Aspen were very nice with large lots and three car garages. She stated she wished to see this type of development.

Citizen Lori Pettus stated her address was 5005 South Chestnut Avenue, Broken Arrow. She thanked City Council for its excellent service. She stated she purchased her home due to the quiet neighborhood and the RS-2 zoning. She stated she felt this was a nice area to raise children and had believed the ambiance would be maintained. She reported she, as well as her neighbors, maintained the neighborhood homes to keep the area attractive. She stated the rezoning to high density RS-4 was frightening which was why there was an immediate and intense response from her and her neighbors. She stated she feared the rezoning would significantly change the area. She indicated she was also very concerned about the steep incline up Florence. She noted she was not an engineer, but as a resident of Grey Oaks she was required to turn in and out of the neighborhood many times daily and there was most certainly a visibility problem. She stated there was a significant blind spot when she attempted to turn left out of her neighborhood. She noted she was worried for the many school children in vehicles and buses in this area; adding another residential entrance would cause more difficulties.

Citizen Linda Russell stated her address was 4804 South Chestnut Avenue, Broken Arrow, in Grey Oaks. She asked City Council to deny PUD-288 for RS-4. She stated once her Community learned the rezoning plan and discovered how limited the options were in opposing the PUD a petition was signed by the concerned citizens opposed to the rezoning. She indicated her initial understanding was that home owners within 300 feet of the proposed development were very important to the petition, but since learned that the majority of the land within 300 feet of the proposed development was owned by the City, not residents. Nevertheless, she noted 100% of the residents within the 300 feet signed the petition. She stated she felt it seemed as if the City put less importance on the gathered signatures than it should. She noted those few citizens who spoke in favor of the rezoning were not residents of the area. She stated the integrity of this area would be dramatically compromised by the experimental village design. She stated both corporately and individually it was the fiduciary responsibility of the City Council Members to uphold the requirements in place for any proposed development and ensure alignment with the purpose and the best use of the land being reconsidered for rezoning. She stated just because something was allowed did not mean it was expedient. She stated it was the responsibility of City Council to uphold ethical standards specific to disclosures of all conflicts of interest, relationships, financial aspects of developer and contractor agreements, including current litigation naming the developers as defendants for breach of agreement, bonus structures, and to substantiate market demand for this PUD-288 specific to this proposed location in Broken Arrow. She stated developing a thriving growing community was of great interest to her and her neighbors, but could happen without compromising the integrity of this area.

Citizen Katherine Robinson stated her address was 5200 South Chestnut Avenue, Broken Arrow, Grey Oaks. She asked City Council to vote no on PUD-288 RS-4. She stated she respected City Council and understood the weight of making decisions regarding other individual's life styles. She asked City Council to seriously consider the situation of the Broken Arrow Citizens living in the Aspen Park, Grey Oaks, and other nearby neighborhoods. She stated she believed common ground could be found, but it would require compromise on both sides. She stated she believed an opportunity existed for the City of Broken Arrow which would satisfy all parties involved. She suggested City Council elect to rezone the northwest corner transitional zone to a zoned urban residential property which would allow the developers to build an urban concept, but without the high density apartments. She stated this would be a better choice for Broken Arrow and the surrounding neighborhoods. She stated there was not a need for more apartment complexes, current apartment complexes were not at full capacity. She noted apartments.com listed 490 apartments were available for rent in the City of Broken Arrow just this morning. She reported there were 26 homes in Grey Oaks, most with original land owners who chose this location for its "more grass less concrete" feel. She stated her area was unique due to the number of trees, amount of lawn, birds, landscaping and outdoor living enjoyed by all. She stated the proposed rezoning was definitely incompatible with the homes in Grey Oaks, Aspen Park and surrounding neighborhoods. She asked City Council to vote no on the rezoning.

Citizen Mark Smith stated his address was 4805 South Chestnut Avenue, Broken Arrow, Grey Oaks, within 300 feet of this project. He stated the Broken Arrow Planning Commission voted no on PUD-288. He asked who City Council would favor, the Planning Commission or the developer. He stated he believed this matter was before City Council as a result of greed. The City wanted additional resources for tax revenue and the investors wanted to double dollars. He reported the consultant representing the developer could hold an equity position in a multimillion dollar project such as the Village at 1Eleven. He stated a money-driven agenda combined with a blind allegiance to the Comprehensive Plan created a perfect storm for this odd, high density Village at 1Eleven to even be considered. He stated it

was a very bad growth idea for the area which did not fit or make any sense, but might make a lot of money for anyone involved. He stated he had no political power or relationship leverages and he felt the process appeared to be rigged in favor of the City and the developer. He stated the petitions did not matter because empty land had more weight than resident's signatures. He stated he had a legitimate case against this development, a strong case with valid concerns which should be studied by City Council, not influenced by money and politics. He stated possibly his case should be presented to an impartial court far removed from the biased political arena. He stated those in favor of this development have called him and his neighbors snobs, old-fashioned, closed-minded, and anti-growth. He stated approval criteria rules part D and part E and PUD requirement #1 were clearly being violated. He stated this PUD-288 was a "kick in the teeth" to his decade's established RE/RS-2 neighborhood. He stated he felt when the Planning Commission voted against this PUD honest impartial representation was displayed in the midst of prejudices and he humbly prayed the City Council voted no on PUD-288.

Citizen Lisa Smith stated her address was 4805 South Chestnut Avenue, Broken Arrow, in Grey Oaks. She stated she lived within 300 feet of this proposed development and she agreed with the prior comments. She stated the apartment aspect of this development was very disturbing. She indicated she understood the need for new building and growth in the area, and the commercial development corner looked nice; however, the apartments were undesirable, inappropriate and would lead to long term residents growing frustrated, moving out and turning single family homes into rental properties as well. She noted it was already difficult to get in and out of her neighborhood, and the new development would increase this difficulty. She stated she felt as if she were being ganged up on. She noted her neighborhood was losing part of its frontage while the new development would have a huge setback and beautiful entrance; her development only had the one entrance. She stated her community was made up of small interconnecting neighborhoods, was green and loved the green areas. She stated developing this into a city block type environment with apartments was terrible. She asked City Council to oppose this PUD-288.

Citizen Colin Young stated his address was 5004 South Chestnut Avenue, Broken Arrow. He stated many of his points had been covered. He noted the PUD did fail the Planning Commission and he felt this was significant. He stated the reasons the PUD did not pass in Planning Commission were due to valid and substantiated concerns. He stated he did not agree PUD-288 met four of the five PUD requirements; he believed it only partly met two of the five PUD requirements. He stated Code Section 63D3, approval criteria for rezoning, was not met: criteria A was vague and subject to interpretation, criteria B and C were arguably met by the original proposal and amendments, proponents would argue criteria D was met, but criteria E was not. He noted all five criteria were required to be met. He explained criteria E was regarding "compatible in scale with uses on other properties in the vicinity of the subject tract." He stated properties immediately across the street and immediately adjoining the subject tract would qualify in most definitions of "in the vicinity." He stated the City must protect the public welfare and take into account stewardship of the land and the environment within its boundaries. He stated the proposal did not fit within the existing surrounding development and land use which was his major point of contention. He stated a high density mixed use housing development next to RS-2 and RE zone would set a bad precedent for the future of Broken Arrow. He stated there were no developments in Broken Arrow where RS-4 zoning was in direct contact with RS-2 or lesser dense development. He asked City Council to consider the long term ramifications this development would have on the immediate area, as well as Broken Arrow as a whole. He asked City Council to deny PUD-288.

Citizen Debbie Ziegler stated her address was 4800 South Chestnut Avenue, Broken Arrow. She asked City Council to vote no on the rezoning of the property on the northwest corner of 111th and Aspen in PUD-288. She noted she felt the sign posted regarding the public hearing was a sign of good faith; City Council was inviting the public to voice its opinion regarding the possible change of zoning. She stated she hoped this was in fact a sign of good faith and not just a matter of protocol. She stated she was thankful City Council was willing to hear the voice of the people, but she wondered if she could fully trust City Officials to seriously consider Citizen's petitions and concerns. She discussed local, state, and national government standards and noted there were many times when these standards were compromised, but she wished to believe the City of Broken Arrow's Government Body had an uncompromising standard, seeking the highest level of integrity and transparency. She stated she hoped Broken Arrow's Governmental Body would seek God's guidance in its decision making.

Mayor Thurmond reminded all present to address the zoning issue in question and to please not repeat previously made points or concerns.

Citizen Sid Ziegler stated his address was 4800 South Chestnut Avenue, Broken Arrow. He stated his was first home in the Grey Oaks subdivision and had a direct line of sight of the proposed development. He noted he had lived in his home for 19 years. He stated it was

amazing every resident within the 300 foot radius of the proposed development signed the petition opposing this development. He discussed the other signed petitions in opposition of the development. He stated he was not opposed to growth and progress. He noted the Warren Theater was supposed to be a successful growth development, but failed. He stated he understood the apartments were to be constructed first. He asked if any of the City Council Members lived near this area. He stated there were 962 apartment units within a three mile radius of his neighborhood and 197 duplexes. He asked City Council not to go against the Planning Commission and to uphold the Planning Commission's decision.

Citizen Elizabeth Biggs stated her address was 5000 South Chestnut Avenue, Broken Arrow. She stated as a resident in Grey Oaks she encouraged City Council to listen and be open to the concerns expressed and to consider the impact City Council's decision would indefinitely have on the affected area. She stated development and growth in Broken Arrow was welcome, but not all development was good development. She stated new development needed to improve the existing area and be able to sustain itself long term while maintaining or increasing surrounding property values. She stated she welcomed the Casey's and the proposed church, but this proposed development with PUD-288 was a bad fit for the area. She stated dropping an urban city block in the middle of a rural area was ridiculous. She stated there would be no cohesive flow, and it would always look out of place. She noted the concept was fine, but was more suitable for a trendy or downtown area. She stated there was no need for more apartments in the area. She stated apart from the misfit urban feeling she worried property values in the surrounding area would be brought down over time. She asked City Council to look at the big picture and the long term effects of such a development being placed in the wrong area. She stated she and her husband intentionally chose not to move into an urban area. She asked City Council to deny this PUD.

Citizen DeEtta Hughes stated her address was 5300 South Chestnut Avenue, Broken Arrow. She stated she lived in the Grey Oaks neighborhood and she asked City Council to vote no to PUD-288. She noted she had lived in Broken Arrow for 32 years, 20 in Grey Oaks. She stated she had been employed by Broken Arrow Public Schools for 21 years and her husband had been a business owner in Broken Arrow for 32 years in family dentistry. She stated she was proud of Broken Arrow and her Community. She stated there was a reason Broken Arrow was chosen as the number one town in the United States. She stated the Planning Commission Members who approved this PUD indicated the citizens in opposition to the zoning change were simply experiencing "growing pains" and the citizens needed "to get over it" in order to have growth. She stated her neighborhood had its share of growing pains with a new elementary school and early childhood center, where approximately 1,000 students and 80 faculty members traveled to each day resulting in the area's traffic flow quadrupling in 2013. She noted, despite this, the schools were welcomed to the neighborhood. She stated the proposed development would share a fence line with the playgrounds of both ECC and the elementary school. She stated her neighborhood would experience growing pains with the widening of the street to five lanes, bringing traffic and noise closer to her home, but it was understood this was a necessity and she was thankful for the upgrade and maintenance to Broken Arrow streets. She stated another growing pain was the location of Fire Station No. 2, directly east of Grey Oaks, bringing siren noise day and night, but Fire Station No. 2 was welcomed to the area. She stated she understood change, growth and adapting. She stated her neighborhood understood the importance of growth, but it should be growth that was positive and necessary and this high density development did not promote growth in a positive manner. She asked City Council to vote no.

Citizen Leland Lynch stated his address was 5304 South Chestnut Avenue, Broken Arrow in Grey Oaks. He stated he built his dream home in this neighborhood 20 years ago with his wife. He stated his lot had huge mature trees, a spring fed creek, and he greatly enjoyed the nature and beauty which surrounded him. He stated his neighbors also had large lots and enjoyed the beauty of the area. He described the surrounding neighborhoods which were designed with green space in mind and stated the proposed high density development had nothing in common with the surrounding area. He asked if growth was defined as cramming as many residents into a small space as possible. He read the Zoning Ordinance of the City of Tulsa and indicated the proposed PUD did not meet Zoning Ordinance requirements. He stated he worried the water runoff from this development would run into Aspen Creek; he did not believe the small retention ponds would be sufficient.

Citizen Ed Mason stated his address was 4904 South Chestnut Avenue, Broken Arrow. He indicated he owned three homes near this proposed development. He stated he did not believe the developer met the PUD requirements for the zoning change. He noted no individual had spoken in favor of this development, aside from the developer, which he felt was an excellent indicator this was a poor fit for the area. He noted he was for development and change and felt an effort should be made to work with the developer and the citizens to find common ground. He indicated he was proud to be a citizen of Broken Arrow and loved the changes evoked in the Rose District.

Citizen Jared Myers stated his address was 11599 South 140th East Avenue, Broken Arrow,

just west of Grey Oaks. He stated he strongly opposed PUD-288. He stated PUD-288 would be an excellent fit in many areas, such as the Rose District and other high density areas, but not in south Broken Arrow. He indicated residents moved to south Broken Arrow to get away from high density housing. He asked City Council to have the vision to see what a development such as this might lead to in years to come. He noted he spent long hours at 41st and Garnet as a child at his mother's place of business in the high density housing area, and this was not a place he would want his children to grow up in. He noted over time high density housing areas tended to decline and he hoped south Broken Arrow would not follow this trend. He asked City Council to listen to the Planning Commission. He stated when he was 17 he came before Mayor Thurmond and City Council petitioning a curfew change and City Council agreed. He stated he learned in that moment that Broken Arrow City Council was a place for the people to be heard and he hoped City Council would hear his petition tonight as well.

Citizen George Anderson stated his address was 11333 South 140 East Avenue, Broken Arrow, just west of Grey Oaks. He stated he felt the developer's presentation was well done; however, the truth was the developer was proposing another apartment complex, more cookie cutter patio homes, and one more very visible south Broken Arrow corner devoted to a fancy strip mall. He stated the development would provide a perfect bookend to the two failed and derelict casinos just a mile away. He stated he entertained high hopes and confidence that the City of Broken Arrow would grow in a way that forward thinking City Planners once promulgated. He stated he was concerned this tendency towards higher density housing projects was detracting from the ability to remain as a very desirable and livable community. He stated he hoped growth would not come at the expense of the City's reputation, citizen safety and way of life. He stated he believed the "hodgepodge" insertion of these types of developments threatened the above and he urged City Council to oppose PUD-288. He stated better alternatives would come available. He thanked City Council for listening.

Citizen Zane Anderson stated his address was 11699 South 140 East Avenue, Broken Arrow. He indicated he strongly opposed PUD-288. He noted years ago, while driving down Aspen, he spotted a home which jumped out at him as a misfit for the area. He stated this home had apparently been developed by Ruhl Construction and while Ruhl Construction had built other homes which were a good fit he worried as this new development was prided as being "state of the art" and "experimental." He stated if this new development was anything like the misfit home he noted on Aspen, it was definitely a poor fit for the area, especially in the form of an apartment complex. He stated he had accounts with both Millcreek Lumber and Builders First Choice and he had been informed that Ruhl was no longer welcome to purchase from these companies because of "iffy payments." He stated this was not a developer he wished to have constructing an enormous project on 29 acres in south Broken Arrow. He stated it was important to know who was developing a project and ensure the developer had good standing with the suppliers. He stated keeping the corner as commercial and working with the developer, if this was a good developer to work with, to make the rest of the development a good fit for the area should be considered.

Citizen Janet Viel stated her address was 2106 West Austin Place, Broken Arrow, in Waterford Park. She stated as a resident of Waterford Park, across the street from the proposed development, she would be looking directly at the proposed apartments. She stated she was a long time resident of Broken Arrow and had owned three homes over the years. She stated she did not oppose the PUD and was in favor of the development. She stated south Broken Arrow had been complaining for years about the lack of service. She stated the last grocery store in south Broken Arrow just closed and the only restaurants were Mexican. She noted south Broken Arrow used to be the place to be and she would like to see this again. She noted south Broken Arrow wanted more services, but services would not come to the area if there were not more rooftops promoting daytime traffic.

Citizen William Kok stated his address was 1008 West Pensacola Court, Broken Arrow in Indian Springs. He stated fortunately this development was not trying to build apartments near Indian Springs. He asked City Council to deny this proposal and find a way to rezone which worked for the residents in the area, as well as the developer. He stated he opposed the proposal for several reasons: south Broken Arrow was not an urban area, did not need more apartments, apartments aged poorly and were maintained poorly. He noted the developer would not be present in 20 years to see what the apartments have become, but the residents would. He stated the surrounding neighborhoods were mostly united in opposition of the development. He stated he did not move to south Broken Arrow for big commercial development; he did not want this. He noted he moved to south Broken Arrow because it was quiet, because it was safe, because it was a place to raise his family; he did not want to see urban living on the corner. He asked City Council to deny the proposal and to find a solution acceptable to both parties, a good fit for south Broken Arrow, which would unite instead of divide.

Citizen Chase Elkins stated his address was 1313 West South Park Street, Broken Arrow in Silvertree, less than half a mile from the proposed development. He stated he felt as if he had

a target on his back as he was in favor of the development. He stated the Comprehensive Plan indicated this area was Level 3, a transition zone and primary uses for Level 3 were higher density residential uses. He stated RS-4 zoning was a new idea, housing with small lot sizes, and similar housing developments in Broken Arrow were selling very well at high prices (up to \$170 dollars per square foot). He stated he believed the market would dictate the need for apartments. He stated he called the Reserve at Aspen Creek and discovered it was 97% leased and 92.5% occupied. He stated the Icon at 111th and Elm was 98% leased and 96% occupied. He stated he felt this showed there was a need for more apartments in south Broken Arrow. He noted the two apartment complexes he mentioned, totaling approximately 500 units, did not create a huge traffic burden. He noted the recent City-wide election showed more development was desired in south Broken Arrow. He stated residents could not continue to complain about the lack of growth in south Broken Arrow, yet complain at every attempt to develop it.

Citizen Diana Coscia stated her address was 4305 South Tamarac Avenue, Broken Arrow, in the Villages at Birchwood. She stated she was super excited about this type of development, and so were many others, which City Council would know if it read NextDoor, Facebook, the City web sites, and other social media outlets. She stated south Broken Arrow wanted new development, big box stores, more roof tops, and more traffic. She stated residents of south Broken Arrow did not want to go to Bixby or Tulsa to shop. She stated the argument about apartments looking poor in 20 years was illogical; nothing lasted forever, everything required maintenance. She stated she hoped City Council did not make its decision based on the veiled threats and other employed tactics. She stated apartments were not a den of iniquity; many families lived in apartments and this was okay. She asked City Council to consider approving PUD-288; it was exactly what Broken Arrow had asked for in the south area and exactly what was wanted.

Mayor Thurmond asked Mr. Reynolds if he had any redress to the comments made.

Mr. Reynolds stated much had been said about the high density, and he believed this was about as low a density as could be expected with respect to the Level 3 area. He stated Level 3 was typically developed into standard apartment projects, but this design used single family homes in the Level 3 transitional zone with lots the physical size of an RS-3 lot, and with respect to the multifamily portion zoning code allowed for 286 units, but only 185 units were proposed to be developed with approximately 53,000 square feet of commercial development. He stated this was well-landscaped, well-designed, and was much less intense than residents were claiming it to be.

Council Member Parks stated he was concerned about the price range of the small homes. Mr. Reynolds responded the small homes would start at \$145 dollars per square foot.

Council Member Gillespie asked if Mr. Ruhl would be the only builder or would he have partners. Mr. Reynolds responded Mr. Ruhl would be the primary builder, but would have partners. Council Member Gillespie asked if Mr. Ruhl intended to build spec homes, or would a resident buy a piece of property and then build the home. Mr. Reynolds responded he believed there would be spec homes, as well as custom homes. Council Member Gillespie asked who the property manager for the apartments would be. Mr. Reynolds responded he was unsure, but it would be a local apartment management company. Council Member Gillespie asked if the developer would remain the owner of the apartments. Mr. Reynolds responded Mr. Ruhl intended to develop and own the property with partners.

Vice Mayor Eudey stated one Citizen mentioned he understood the developer intended to build the apartments first. He asked for clarification. Mr. Reynolds responded the single family residential homes would be constructed first.

City Attorney Trevor Dennis stated there seemed to be some confusion over Statute 11OS, Section 43-105B2, which was the three-fifths majority clause. He explained specifically it stated in order to trigger the requirement the petition must be signed by the "owners of 50% or more of the area of the lots within a 300 foot radius of the exterior boundary of the territory included in the proposed change." He noted there were no exceptions in the Statute regarding who owned the property, whether it was a government entity, private entity, or anything of this nature; it was a 50% requirement. Mayor Thurmond stated this was a moot point as three-fifths of the Council was required for a vote to pass regardless. Vice Mayor Eudey stated he understood the residents believed the 50% requirement was a moot point and felt there were many residents who signed the petitions opposing the development who were not being considered. He stated this was inaccurate, however, as City Council had received the petitions and had heard the opposition and was taking it into consideration.

Council Member Parks asked if the Police Chief had any comments regarding the concerns about increased crime and the crime in the Tulsa area. Chief Brandon Berryhill stated he did some cursory research of apartment complexes in Broken Arrow crime rates in 2018 and he discovered the apartments at 81st and Aspen had five crime reports for the year. He stated in

his 25 years of experience he understood the apartment complex was not the issue; it was the management of the apartment complex. He stated years ago Indian Springs was a problem area, and in working with the management he found if management was strict about who was leased to and evicted the problem residents, crime rates significantly improved. He stated the most heinous crimes in Broken Arrow were not committed in apartment complexes, they were committed in homes. He stated the large new apartment complex north of the highway did not generate many crime reports. He stated crime rates were determined by the quality of residents, management, and maintenance. He noted single family home areas which were unkempt traditionally became crime problems.

Vice Mayor Eudey asked if the mentioned area in Tulsa, at 41st and 129th, was similar to any areas in Broken Arrow. Police Chief Brandon Berryhill responded he was unsure, Tulsa was not his City, and Broken Arrow was the safest city in Oklahoma, even being next to the most dangerous city in Oklahoma.

Vice Mayor Eudey noted a Citizen had a concern about plans changing if this development was unsuccessful. He asked if the developer had the right to change the plans without coming before City Council. Acting Director of Development Services Larry Curtis responded in the negative. He stated the PUD which was proposed to Council tonight was associated with the rezoning change. He stated the PUD was good for two years; if no action was taken and the developer failed to move forward with the platting of the property, then the PUD dissolved along with the zoning. He stated the developer could apply to extend the PUD each year, for one year, for a total of four years. He noted if no action was taken in this time period the PUD dissolved, as well as the zoning; one could not be kept without the other. Vice Mayor Eudey iterated the dissolution of the PUD and zoning would occur if the developer failed to file the plat which was subject to continued approval. Mr. Curtis concurred. He noted if the developer wished to make changes to the PUD beyond what was approved by City Council the PUD was required to come back before the Planning Commission and City Council. He noted minor modifications required Planning Commission approval only; however, notification would be sent to abutting residents for minor amendments and notification would be sent to residents within 300 feet of the property for major amendments.

Council Member Parks asked how long the PUD applied to the property if the developer moved forward with the process and platted the property. Mr. Curtis responded if the property was platted it would be enacted permanently. Council Member Parks stated this was one reason he liked a PUD. He noted he would not vote to approve apartment complexes unless constructed under a PUD; PUDs were permanent which was one reason Broken Arrow apartment complexes looked so nice. He explained it was a direct result of the extra brick veneer, landscaping and other aesthetics required through the PUDs.

Council Member Parks stated this was a difficult decision to make, one of the most difficult he had faced in his career, and a difficult situation because it was such a big change. He explained City Council had to take into consideration the Comprehensive Plan. He explained the Comprehensive Plan was a legal document which stood up in court, and in reviewing the Comprehensive Plan this corner, as well as its three partner corners, were designated Level 4 and Level 3. He stated this has been the case since 1998, but even before then the development pattern was commercial property on the corners, higher density surrounding the commercial property, and lower density beyond this. He noted he and his wife had lived in an older subdivision for 30 years and next to his home was a small area of Level 3, which he understood would be duplexes someday or RS-4 someday. He stated next to the Level 3 was the Level 4 and it would be a multifamily area eventually. He stated it was important to develop these types of areas in a way the Police Department could approve of, and in a way that the apartments were high enough quality to remain attractive and well maintained. He stated in his case, being right along the Broken Arrow Expressway, it would probably be a hotel rather than apartments, but he understood this when he purchased his home. He stated he also understood that his street would one day tie into Elm Place. He stated he was not pleased about this, but he understood he could not change it. He stated several citizens have threatened to sue and whatever decision was made the City would most likely be sued; however, the courts would look at this Comprehensive Plan document. He stated this was a difficult decision, but needed to be made. He noted Broken Arrow was growing; he remembered when Broken Arrow had 35,000 residents, now it had 115,000 residents. He stated change had to happen and smaller lots were desirable now. He stated he heard many residents ask for RS-2 or RE zoning; however, the Comprehensive Plan would not allow this in Level 3 or Level 4.

Vice Mayor Eudey noted the motion needed to clearly indicate the changes which were being adopted into PUD-288.

MOTION: A motion was made by Christi Gillespie, seconded by Debra Wimpee.

Move to approve PUD-288 with the stipulation to restrict multifamily units to 185 units, restrict single family lots to 65 lots, increase the buffer from 10 feet to 20 feet and

require a minimum of 25% of development A land area as Commercial/Office Mix, and approve BAZ-2024, all subject to the property being platted

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

Council Member Wimpee stated in the two years she had served on City Council she heard constantly that the City had “neglected” south Broken Arrow, the City “hated” south Broken Arrow, and residents wanted something to happen in south Broken Arrow, so it had been difficult to hear the opposition to the first real development which had come to south Broken Arrow in a long time. She stated she also repeatedly heard from the residents in this location there was an understanding development would take place and this was an excellent development; the residents just did not want it next door. She stated the problem was the developer did not own land elsewhere; the developer owned this land and had the right to build in this location.

Mayor Thurmond stated he voted yes for the same reasons as Council Member Parks: the Comprehensive Plan was clear and City Council was required to be in compliance with the Comprehensive Plan.

Vice Mayor Eudey stated he agreed with Mayor Thurmond and Council Member Parks; he believed City Council was legally obligated in these circumstances.

Mayor Thurmond called for a brief recess.

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)

There were no Citizens who wished to address City Council on general topics related to City Business or Services.

9. General Council Business

- A. 19-786 Consideration, discussion, and possible approval and direction to publish a Legal Notice of Annexation for the voluntary annexation of approximately 1,240 acres located South of Dearborn Street (41st), East of 51st Street (Evans Road / 225th East Avenue) within all of Section 28, Township 19 North, Range 15 East and parts of Section 27, Township 19 North, Range 15 East and parts of Section 33, Township 19 North, Range 15 East and parts of Section 4, Township 18 North, Range 15 East, Wagoner County, State of Oklahoma**

Acting Director of Development Services Larry Curtis reported this item came before Council on April 2, 2019 for an annexation request to annex approximately 1,240 acres into the City of Broken Arrow. He indicated there had been some issues associated with the annexation and he asked City Council to restart the process and give direction to send out legal publication and notice for the Public Hearing.

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

Move to direct the City Clerk to publish a legal notice of annexation in a legally qualified newspaper within 14 days prior to the Public Hearing and provide notice in accordance with State Law

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

- B. 19-780 Consideration, discussion and possible award of the lowest responsible bid to Diversified Civil Contractors, LLC and approve and authorize execution of a construction contract for the Downtown Main Street Streetscapes - Phase V (Project No. ST1820)**

Engineering Division Manager for the City of Broken Arrow Roger Hughes reported the next phase of Streetscapes from the MileStone Development from Detroit to Elgin was ready to begin. He asked for City Council approval for the base bid and Add Alternate #1.

City Manager Michael Spurgeon asked Engineering Division Manager Roger Hughes to describe the boundaries of the work and the Add Alternate. Mr. Hughes explained the base bid was for Detroit Street, the two side streets, Main Street up to the intersection at Elgin, but not including the intersection itself. He stated Add Alternate #1 included the intersection of Elgin and slightly down the north sides. He noted Add Alternate #2 would take it down the north sides all the way to the half block section, but he did not recommend approval of Add Alternate #2. City Manager Spurgeon asked if the traffic signal would be removed from the bid. Mr. Hughes responded once this was approved the City would do a change order to remove the traffic signals from the bid, watch to see if the signals were needed, and if so, the signals would be added back to Sales Tax Capital Improvement (STCI) in a future budget. Vice Mayor Eudey asked if there would be a mid block crosswalk. Mr. Hughes responded in the negative, but this could be added in the future if needed.

MOTION: A motion was made by Scott Eudey, seconded by Debra Wimpee.

Move to award the lowest responsible base bid and Add Alternate #1 to Diversified Civil Contractors, LLC and approve and authorize execution of a construction contract for the Downtown Main Street Streetscapes - Phase V (Project No. ST1820)

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

C. 19-735 Consideration, discussion, and possible approval of Resolution No. 1204, a Resolution of the Broken Arrow City Council adopting the Fiscal Year 2019-2020 Annual Budget for the City in accordance with the provision of the Municipal Budget Act

Finance Director Cindy Arnold stated the proposed Fiscal Year 2019-2020 Budget was presented to City Council at a Special Meeting on May 9, 2019, with a Public Hearing on June 3, 2019. She reported the proposed Budget under consideration totaled \$307,646,172 dollars and had no changes since presented at the Public Hearing. She stated Staff recommended approval of Resolution No. 1204 and authorization of execution, which would adopt the Fiscal Year 2019-2020 Annual Budget.

MOTION: A motion was made by Johnnie Parks, seconded by Christi Gillespie.

Move to approve Resolution No. 1204 and authorize its execution

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

D. 19-733 Consideration, discussion, and possible approval of Resolution No. 1241, a Resolution approving the Fiscal Year 2020 Manual of Fees, establishing fees costs charged by the City of Broken Arrow: authorizing the periodic adjustment and waiver of fees by the City Manager; providing an effective date of October 1, 2019

Finance Director Cindy Arnold reported this resolution would approve and adopt the Fiscal Year 2020 Manual of Fees at this time; however, the Manual of Fees would not go into effect until October 1, 2019. She stated Staff recommended approval of Resolution No. 1241 and authorization of execution.

Vice Mayor Eudey stated he approved of the Manual of Fees being adopted concurrent with the Budget.

MOTION: A motion was made by Scott Eudey, seconded by Debra Wimpee.

Move to approve Resolution No. 1241 and authorize its execution

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

E. 19-756 Consideration, discussion and possible approval of Resolution No. 1240, a Resolution of Necessity to file a Small Claims action against Deep LLC-Luxury Inn & Suites located at 1401 N. Elm Pl Broken Arrow OK 74012 74012 for failure to report and or pay Hotel Occupancy Tax owing for the period of December 2016 through March 2019

Finance Director Cindy Arnold reported according to Broken Arrow code Section 22-1112 there was an excise tax of 4% upon the gross proceeds or gross receipts on occupancy of hotel rooms in the City of Broken Arrow. She stated the hotel operator was responsible for tax collection and was required to file with the City Manager a report of occupancy, rents and taxes payable on a monthly basis. She reported Mr. Patel, the owner, and doing business as Luxury Inn and Suites, had failed to file his reports or pay his taxes since December 2016. She stated the small claims process provided rapid resolutions and civil litigation. She noted it was estimated Luxury Inn & Suites owed \$9,670.40 from the period of December 2016 to current.

Vice Mayor Eudey asked if this was the first time this issue had come before City Council. City Attorney Trevor Dennis responded in the negative. He noted historically Broken Arrow had filed two small claim actions against Mr. Patel who then paid his taxes within the week of filing. He stated it was disappointing a law suit was required to get his attention. He reported he was prepared to go forward with the petition and could request attorney fees. Vice Mayor Eudey asked if the fees incurred for filing the petition were included in Mr. Patel's bill. City Attorney Dennis responded in the negative; however, this could easily be included. Vice Mayor Eudey asked if the motion could be amended to include fees. City Attorney Dennis responded in the affirmative.

Council Member Parks asked if Mr. Patel was collecting the taxes. City Attorney Dennis responded he was unsure. Ms. Arnold responded upon review of the reports, Mr. Patel was collecting taxes, but it was impossible to tell what taxes he was collecting.

MOTION: A motion was made by Scott Eudey, seconded by Christi Gillespie.

Move to approve Resolution No. 1240 as amended to include collections, attorney fees and costs associated with litigation, and authorize its execution

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

- F. 19-760 **Consideration, discussion and possible approval of Resolution No. 1249, a Resolution of Necessity to file a Small Claims action against Pride Hospitality LLC, - LaQuinta Inn and Suites, located at 451 W Albany St. Broken Arrow, OK 74012 for failure to report and or pay Hotel Occupancy Tax owing for the period of March 2019 and April 2019**
Finance Director Cindy Arnold responded this was the same situation involving the same owner, Mr. Patel. She stated Mr. Patel had paid some taxes for this hotel, but was falling behind once more. She reported it was estimated Mr. Patel owed approximately \$9,600 dollars. She asked City Council to approve Resolution No. 1249 and authorize its execution.

MOTION: A motion was made by Scott Eudey, seconded by Christi Gillespie.

Move to approve Resolution No. 1249 as amended to include collections, attorney fees and costs associated with litigation, and authorize its execution

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

- G. 19-805 **Consideration, discussion and possible approval of Resolution No. 1250, a Resolution of the Broken Arrow City Council declaring an emergency as a result of a sanitary sewer trunk line break resulting in a collapsed junction manhole for the Broken Arrow Creek trunk sewer and the County Line trunk sewer east of South 177th East Ave and north of Jasper Street (131st Street); activation of the City's Emergency Operation Protocols, including waiving state and local provisions pertaining to competitive bidding as allowed by law; authorizing an informal bidding process; authorizing the City Manager to execute emergency contracts as necessary for repairs and any subsequent critical events; providing for the termination and extension of the provisions of this resolution; and directing the City Manager to carry out all applicable provisions**

City Attorney Trevor Dennis reported unfortunately, there was a second emergency on the County Line trunk sewer. He explained this was a different emergency declaration for a different location along the same sewer line which involved two sewer lines on the trunk which conjoined at a manhole junction box. He reported the 17 foot deep junction manhole which served the lines collapsed and was discharging raw sewage through a sinkhole similar to the previous sinkhole emergency. He stated the City needed to emergently mobilize crews to get this repaired; unfortunately City Crews did not have the equipment or expertise to work at the depth necessary to repair the lines. He stated, as such, he needed the flexibility to waive the Competitive Bidding Act, authorize an informal bidding process, and authorize the City Manager to enter into a contract with Belt Construction who could provide the necessary equipment and materials to effectuate the repair. He noted it was estimated the cost would be \$165,200 dollars. He stated Staff recommended City Council approve Resolution No. 1250 and authorize its execution.

Council Member Parks asked if the City Crews were able to keep the sewage out of the creeks. Assistant City Manager of Operations Kenny Schwab responded he understood City Crews had been able to keep the sewage in the manhole, but if heavy rains came it would become extremely problematic. Council Member Parks asked if this was close to the previous emergency site. Assistant City Manager of Operations Mr. Schwab responded in the negative; this was located 200 or 300 feet north of Jasper/131st Street and Lynn Lane.

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

Move to approve Resolution No. 1250 and authorize its execution

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

- H. 19-801 **Consideration, discussion and possible approval of Resolution No. 1248, a Resolution authorizing the City Attorney to defend Marque Baldwin in the civil action Ellsworth vs. The City of Broken Arrow et al, Case No. 19-CV-34TCKFHM in the United States District Court for the Northern District of Oklahoma**
City Attorney Dennis reported Plaintiff Amanda Ellsworth originally sued the City of Broken Arrow for allegedly violating her civil rights related to a traffic stop. He reported on February 19, 2019 Ms. Ellsworth amended her complaint and named Marque Baldwin individually. He explained the City had been defending the case under the City, but with the addition of Marque Baldwin, Statute required City Council make a finding that Officer Baldwin acted in good faith in the course and scope of his employment to provide a defense to him in that case. He stated Staff recommended City Council approve Resolution No. 1248 and authorize its execution as Officer Baldwin was acting in the scope and course of his employment in good faith in this case.

MOTION: A motion was made by Scott Eudey, seconded by Christi Gillespie.

Move to approve Resolution No. 1248 and authorize its execution

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

- I. 19-800 **Consideration, discussion, and possible approval of Resolution No. 1242, a Resolution authorizing the City Attorney to agree to Entry of Judgment in the case of City of**

Broken Arrow, Oklahoma v. Abatement Systems, Inc., Wagoner County District Court Case No. CV-18-4 and directing the City Attorney to prepare and file the necessary documents to effectuate settlement including a Journal Entry for the Courts approval and declaring the necessity to condemn property located in the NW/4 of the SW/4 of Section 7, T-18-N, R-15-E of Indian Meridian, Wagoner County, State of Oklahoma
City Attorney Dennis requested this item be tabled until following the executive session as the matter was up for discussion during executive session.

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

Move to table Item I until following the executive session

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

J. 19-793 Consideration, discussion, and possible action regarding the Public Hearing Officer's decision on June 6, 2019 to declare 1907 West Pittsburg Place, Broken Arrow, Oklahoma 74012; Stacey Lynn Fifth Lot 8 Block 13, Tulsa County, as a public nuisance and authorization to abate the property; Case No. 19-1003329

City Attorney Dennis reported Poonam Gupta owned property at 1907 W. Pittsburg Place. He reported a Code Enforcement Officer with the City investigated the property on May 2, 2019 and confirmed the weeds and grass exceeded a height of 12 inches at the property. He stated Poonam Gupta was properly noticed of the violation, but the situation had not been remediated. He noted Poonam Gupta appealed the notice of nuisance abatement to Hearing Officer Russell Gale who denied the appeal and found that the property as it was constituted a nuisance. He reported specifically Section 15-1C26 of the Broken Arrow nuisance codes required that weeds including, but not limited to poison ivy, poison oak or poison sumac and all vegetation at any state of maturity which exceeded a height of 12 inches needed to be remediated. He stated Poonam Gupta was asked to mow the property; this had not been done and Poonam Gupta decided to appeal Mr. Gale's decision. He reported Staff asked to affirm the decision of the Hearing Officer and authorize Staff to move forward with Abatement as previously approved by the Hearing Officer. He stated Poonam Gupta was present to speak with City Council, as well as Code Enforcement Officer Valerie Holbrook.

Citizen David Gupta stated he would speak on behalf of his mother who owned 1907 W. Pittsburg Place, Broken Arrow. He reported on June 6, 2019 Poonam Gupta met with a Hearing Officer who denied her appeal stating that weeds and grass exceeded a height of 12 inches, concealed or invited deposits or accumulations of trash, or harbored rodents or vermin. He stated the fact of the matter was there were no weeds on the property. He stated by definition a weed was unwanted vegetation growing on a property. He noted all the plants in question were flowers or ornamental grasses which were selected and planted by Poonam Gupta per her taste. He stated he believed the City Employee was harassing his mother and making up laws which did not exist, for example how close a tree could be planted to a house, or flowers were required to be planted in a flower bed. He stated selectively using a wide encompassing ordinance to achieve wishes was another example of bias. He stated the property was covered with mulch and flowers and he wondered why this was not permitted. He stated it was her yard she should be permitted to grow flowers wherever she pleased on her own property. He reported she dealt with the rodent issue by placing mulch around all the flowers. He indicated the City property down the street was the rodent problem area. He stated there were no problems with trash or vermin on his mother's property and he would sue if the City continued to harass his mother. Poonam Gupta stated she had been growing flowers in her yard for 20 years and now what she grew was called a nuisance. She stated Ms. Valerie Holbrook called her flowers weeds, when the flowers were not weeds. She displayed a picture of her yard and pointed out the various flowers. She stated she used mulch to ensure no weeds grew. Mr. Gupta stated this was a matter of his mother's personal taste versus Ms. Holbrook's taste. Poonam Gupta stated the City did not have any business on her personal property and if City Council did not rule in her favor, pronouncing she had not broken any laws, she would move the matter to the District Court.

Mayor Thurmond indicated Code Enforcement responded to complaints and did not make complaints themselves. Poonam Gupta stated Ms. Holbrook made the complaint herself, not on behalf of another. She reported in 2016 a complaint was filed, but she did not respond to the complaint or attend the hearing and the City mowed down her entire yard without permission. She stated this was unacceptable. She stated she was now afraid to put anything in her backyard, such as her art and flower pots, for fear of Ms. Holbrook coming into and clearing her yard.

Council Member Wimpee asked where the front door was located. Mr. Gupta noted the front door was located behind the bushes. Poonam Gupta stated she wrote a letter to City Council and never received a reply. She stated every year she was harassed regarding her flowers in her yard which would be gone by July. She asked what type of flower was not considered a nuisance and she would plant those types of flowers.

Vice Mayor Eudey asked for City Attorney Dennis to read the Code and State Statutes

referenced in the abatement notice. City Attorney Dennis read through the notice which indicated “weeds including, but not limited to poison ivy, poison oak or poison sumac and all vegetation at any state of maturity which exceeded a height of 12 inches except healthy trees, shrubs or produce for human consumption, when grown in a tended and cultivated garden, unless such trees, shrubbery or produce by their density or location constituted detriment to the health, safety or welfare of the public...” He stated he did not have the State Statute in front of him, but he knew City Ordinance tracked State Statutory language.

Code Enforcement Officer Valerie Holbrook stated she would be happy to answer any questions. Vice Mayor Eudey asked if the yard today looked as it did in the pictures. Ms. Holbrook responded in the negative; the growth was several inches taller at this point. She reported when she gave notice of the violation, the property did not have the mulch on the lawn and driveway; this had been recently added. She stated initially she opened the case for the property; however, since opening the case she had received complaints from the neighbors. Council Member Parks asked if Ms. Holbrook had received complaints from Poonam Gupta’s neighbors. Ms. Holbrook responded in the affirmative; she explained as a Code Enforcement Officer her job was to be proactive, as well as reactive. Council Member Parks stated he went by to see this property on several occasions. He noted at one time there was a part of the Ordinance which allowed for a permit if it was a “green type” yard to grow flowers in the yard. City Attorney Dennis stated he would have to do some research in this regard. Council Member Parks stated there were a few houses he had complained about in the past, but was informed the homes had an “environmentally friendly” permit. He stated the flowers in this yard brought those other yards to mind; not the overgrown shrubberies and such which covered the house, but the flowers. He stated he was not defending this house as he felt it looked bad when he drove by. Ms. Holbrook stated Staff made suggestions to Poonam Gupta, such as creating flower beds which were easier to care for. She stated at this point it covered the entire yard which was difficult to maintain, especially when there was tall grass and weeds mixed in with the flowers. She noted Poonam Gupta was not amenable to any suggestions and as such her yard has become a nuisance.

Vice Mayor Eudey stated he understood a desire to have flowers; however, there was a lot of growth on the property which exceeded 12 inches, and the Ordinance did not permit this. Poonam Gupta asked if the flowers were not allowed to grow taller than 12 inches. Ms. Holbrook responded she understood that flowers grew taller than 12 inches, this was not in dispute, but the flowers and yard needed to be well cared for. Poonam Gupta stated there was no law which stated she could not grow flowers taller than 12 inches in her yard. Mayor Thurmond responded ordinance clearly stated no vegetation other than shrubberies, trees, or produce could grow taller than 12 inches. City Attorney Dennis added it also indicated produce could only grow taller than 12 inches if grown in a cultivated garden. He noted he understood this could be subjective; however, City Code Enforcement determined it was not a cultivated garden, and he agreed after viewing the photos. Vice Mayor Eudey stated he believed Ordinance directly and clearly addressed what he saw of Poonam Gupta’s lawn.

MOTION: A motion was made by Scott Eudey, seconded by Johnnie Parks.
Move to affirm the Public Hearing Officer’s decision on June 6, 2019 to declare 1907 West Pittsburg Place, Broken Arrow, Oklahoma 74012; Stacey Lynn Fifth Lot 8 Block 13, Tulsa County, as a public nuisance and authorize to abate the property; Case No. 19-1003329

The motion carried by the following vote:
Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

K. 19-796 Consideration, discussion, and possible action regarding the Public Hearing Officer’s decision on June 6, 2019 to declare 1911 West Pittsburg Place, Broken Arrow, Oklahoma 74012; Stacey Lynn Fifth Lot 7 Block 13, Tulsa County, as a public nuisance and possible authorization to abate the property; Case No. 19-10033230
City Attorney Dennis reported this was a companion case to the appeal just heard. He noted there were two properties owned by Poonam Gupta. He reported Code Enforcement investigated the property on May 2, 2019, confirmed the weeds and grass exceeded a height of 12 inches; Poonam Gupta was properly notified of the violation, Hearing Officer Gale conducted a Public Hearing and confirmed the violation, and Poonam Gupta appealed Mr. Gale’s decision. He stated Staff recommended City Council affirm the decision of the Hearing Officer and authorize Staff to move forward with abatement as previously approved by the Hearing Officer.

Poonam Gupta stated if City Council was trying to say flowers could not grow to more than 12 inches in height then the entire City would have to be mowed down. She stated she could make thousands of complaints about every homeowner in Broken Arrow. She stated she could grow anything she wanted as it was her property. Mayor Thurmond responded she could not grow anything which violated the Nuisance Ordinance. Discussion ensued regarding the ordinance referring to vegetation of any type, and how a garden must be maintained and cultivated.

MOTION: A motion was made by Scott Eudey, seconded by Christi Gillespie.
Move to affirm the Public Hearing Officer's decision on June 6, 2019 to declare 1911 West Pittsburg Place, Broken Arrow, Oklahoma 74012; Stacey Lynn Fifth Lot 7 Block 13, Tulsa County, as a public nuisance and possible authorization to abate the property; Case No. 19-10033230

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

10. Preview Ordinances

A. 19-744 Consideration, discussion and possible preview of an Ordinance amending the Broken Arrow Code of Ordinances, Appendix A – Chapter 5, Development Standards, Section 5.7, Signs, specifically amending the purpose and intent of the Sign Ordinance, bringing the Ordinance into compliance with federal law, establishing criteria for digital signs, amending the criteria for signs in Areas 5 and 6 of the Downtown Residential Overlay District, allowing and establishing criteria for commercial signs in Area 7 of the Downtown Residential Overlay District, and adding sections for pole signs, sandwich board signs, signs for educational institutions, and a Definitions section; repealing all ordinances or parts of ordinances in conflict herewith.

City Attorney Trevor Dennis reported this preview ordinance amended Section 5.7 of the Zoning Ordinance, specifically for the sign code requirements. He stated in 2015 the US Supreme Court ruled that a city's sign regulations could not be content based; content based regulations were regulations of speech. He stated he believed this was specifically related to a church sign, but any type of speech content requirement would be subject to strict scrutiny review by the Supreme Court. He stated the Ordinance was quite lengthy and was included with the materials previously provided to City Council.

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

Move to preview the ordinance and set it for adoption

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

11. Ordinances

A. 19-742 Consideration, discussion, and possible adoption of Ordinance No. 3585 closing a portion of Right-of-Way on property located one-eighth mile south of New Orleans Street (101st Street), one-third mile east of 9th Street (Lynn Lane Road), Tulsa County, State of Oklahoma, (Section 25, T18N, R14E); repealing all ordinances to the contrary; and declaring an emergency (Seven Oaks South)

City Attorney Dennis reported Ordinance No. 3585 was for the closure of 0.03 acres of right of way which was previously dedicated by a plat. He stated with the development of the property to the west it was determined the existing substreet at this location was no longer necessary and the applicant requested the right of way be closed to incorporate the property into the Village at Seven Oaks South development. He noted the utility companies had no objection to the closure and Staff recommended City Council adopt Ordinance No. 3585 and approve the emergency clause.

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

Move to adopt Ordinance No. 3585

The motion carried by the following vote:

Aye: 4 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey
Abstain: 1 - Craig Thurmond

MOTION: A motion was made by Debra Wimpee, seconded by Scott Eudey.

Move for the emergency clause

The motion carried by the following vote:

Aye: 4 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey
Abstain: 1 - Craig Thurmond

12. Remarks and Inquiries by Governing Body Members

There were no Remarks and Inquiries by Governing Body Members.

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

There were no Remarks and Updates by City Manager.

At approximately 10:12 p.m. Mayor Thurmond stated there was an executive session and he would entertain a motion for a brief recess to enter into BAMA and BAEDA.

MOTION: A motion was made by Scott Eudey, seconded by Debra Wimpee.

Move for a brief recess to enter into BAMA and BAEDA

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

At approximately 10:19 p.m. Mayor Thurmond reconvened the Meeting of the City Council and stated he would entertain a motion for a brief recess to clear the room for Executive Session.

MOTION: A motion was made by Scott Eudey, seconded by Christi Gillespie.

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

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, 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 other pertinent staff members discussing and conferring on matters pertaining to:

1. Workers' Compensation Court Case, Michael Shaw v. City of Broken Arrow, Case No. CM2014-11643R; to include updating the City Council, potential resolution of the pending Workers' Compensation claim, and taking appropriate action in open session, including possible authorization to settle this litigation under 25 O.S. § 307(B)(4);
2. Workers' Compensation Court Case, Michael Shaw v. City of Broken Arrow, Case No. CM2014-09503H; to include updating the City Council, potential resolution of the pending Workers' Compensation claim and taking appropriate action in open session, including possible authorization to settle this litigation under 25 O.S. § 307(B)(4);
3. Litigation, including potential resolution, of a matter involving the tort claim of Lamont Tharps 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);
4. Litigation, including potential resolution or appeal of a matter involving the pending litigation matter of City of Broken Arrow v. B-Z Properties, Case No. CV-2018-21 in the District Court of Wagoner county, and taking appropriate action in open session, including possible authorization to settle this litigation under 25 O.S. §307(B)(4);
5. Litigation, including potential resolution, of a matter involving the litigation case of City of Broken Arrow v. Joe H. Wilson and Rebecca J. Wilson, et al., Tulsa County District Court Case Number CJ-2019-182, under 25 O.S. §307(B)(4).
6. Litigation, including potential resolution of a matter involving the pending litigation matter of City of Broken Arrow v. Abatement Systems Inc., Case No. CV-18-4 in the District Court of Wagoner County, and taking appropriate action in open session, including possible authorization to settle this litigation under 25 O.S. § 370(B)(4).

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.

MOTION: A motion was made by Debra Wimpee, seconded by Scott Eudey.

Move to enter into the Executive Session

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

MOTION: A motion was made by Scott Eudey, seconded by Christi Gillespie.

Move to authorize settlement of the workers compensation court case Michael Shaw v. City of Broken Arrow in the amount requested by the City Attorney

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

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

Move to authorize settlement of the workers compensation court case Michael Shaw v. City of Broken Arrow in the amount requested by the City Attorney

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

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

Move to authorize the City Attorney to settle the tort claim Lamont Tharps v. City of Broken Arrow in the amount requested by the City Attorney and authorize the City Attorney to enter into a Journal Entry of Judgment finalizing settlement of this matter

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

MOTION: A motion was made by Scott Eudey, seconded by Debra Wimpee.

Move to authorize the City Attorney to settle the case City of Broken Arrow v. B-Z Properties, Case No. CV-2018-21 in the District Court of Wagoner County in the amount requested by the City Attorney

The motion carried by the following vote:
Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

MOTION: A motion was made by Scott Eudey, seconded by Johnnie Parks.
Move to authorize the City Attorney to settle the case City of Broken Arrow v. Joe H. Wilson and Rebecca J. Wilson, Case No. CJ-2019-182 in the District Court of Wagoner County in the amount requested by the City Attorney, and authorize the City Attorney to enter into a Journal Entry of Judgment finalizing settlement of this matter

The motion carried by the following vote:
Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

MOTION: A motion was made by Scott Eudey, seconded by Christi Gillespie.
Move to find the Executive Session necessary

The motion carried by the following vote:
Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

15. Adjournment

The meeting adjourned at approximately 10:38 p.m.

MOTION: A motion was made by Johnnie Parks, seconded by Christi Gillespie.
Move to adjourn

The motion carried by the following vote:
Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

Mayor

City Clerk