

City of Broken Arrow

Minutes

City Council Meeting

City Hall
220 S 1st Street
Broken Arrow OK
74012

Mayor Debra Wimpee
Vice Mayor Christi Gillespie
Council Member Johnnie Parks
Council Member Lisa Ford
Council Member Justin Green

Tuesday, April 16, 2024	Time 6:30 p.m.	Council Chambers
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1. Call to Order

Mayor Debra Wimpee called the meeting to order at approximately 6:30 p.m.

2. Invocation

Pastor Chauncey Forte performed the invocation.

3. Roll Call

Present: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

4. Pledge of Allegiance to the Flag

Council Member Lisa Ford led the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

Mayor Wimpee asked if there were any Items to be removed from the Consent Agenda; there were none.

MOTION: A motion was made by Christi Gillespie, seconded by Lisa Ford.

Move to approve the Consent Agenda

The motion carried by the following vote:

Aye: 5 -

Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

A. 24-73

B. 24-521
Approval of the City Council Meeting Minutes of April 2, 2024
Approval of the Special Joint City Council and Planning Commission Meeting Minutes of March 26, 2024

C. 24-362

Approval of and authorization to execute Change Order #1 with Ground Level, LLC for the Park on Florence 2nd Detention Pond Improvements project (SW1922)

D. 24-458

Acceptance of a Utility Easement from Patrick M. Hays, Otis Earl Hays III and Patricia J. Hays, the owners, on property located at 11528 E 64th Street, Broken Arrow, Oklahoma 74012, located in the Northwest Quarter of the Section 5, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma. Parcel 9.0 for the Melinda Park Sanitary Sewer Improvements. Project No. S.23030

E. 24-491

Approval of and authorization to execute Fourth Amendment to Economic Development Agreement by and among Sunset at Broken Arrow, LLC, and the Broken

Arrow Economic Development Authority and the City of Broken Arrow

Approval of and authorization to execute acceptance of Progressive Casualty Insurance Company offer to settle claim for vehicle loss, declaring the vehicle surplus and releasing unit 2033 to Progressive Casualty Insurance Company

F. 24-519

Approval of and authorization to execute a Memorandum of Understanding between the City of Broken Arrow and the Board of County Commissioners of the County of Tulsa regarding the Tulsa County Court Clerk's satellite office in Broken Arrow

H. 24-413

Approval of and authorization to execute a Professional Services Contract with Keep Broken Arrow Beautiful for the Rose Festival, in an amount not to exceed \$7,500.00, for the 2024 festival, subject to annual appropriations

I. 24-416

Approval of and authorization to execute a Professional Services Contract with ArtsOK for the Chalk It Up Festival, in an amount not to exceed \$7,500.00, for the 2024 festival, subject to annual appropriations

J. 24-518

Approval of and authorization to execute a Professional Services Contract with The Davenport group for Engineering hours associated with the Hyper-V cluster build

K. 24-505

Approval of and authorization to execute a proclamation declaring April 22, 2024, as Earth Day, and the month of April, 2024 as Earth Month in the City of Broken Arrow and encourage our citizens to participate in activities such as recycling, reducing, reusing, replanting, and restoring our communities and the planet

L. 24-531

Approval of and authorization to execute a proclamation declaring May 6, 2024, as Broken Arrow High School Bands Day

M. 24-525

Approval of and authorization to execute service agreement with Fleet Clean for truck washing service

- N. 24-467 Approval of PR-000139-2022 | PT-001396-2024, Conditional Final Plat, Old Highway 51 Industrial Park, approximately 2.30 acres, 1 proposed lot, A-1 to IL/PUD-000502-2022 located approximately one-quarter mile north of Houston Street and one-quarter mile east of 23rd Street, southwest of the Broken Arrow Expressway
- O. 24-410 Award of the lowest responsible bid to Cherokee Pride Construction, LLC and approve and authorize the execution of a construction contract for the Elm Avenue Culvert Replacement project (SW23010)
- P. 24-494 Ratification of the Claims List Check Register Dated April 08, 2024

6. Consideration of Items Removed from Consent Agenda

There were no Items removed from the Consent Agenda; no action was taken or required.

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

- A. 24-496 Presentation of Tulsa County Court Clerk's satellite office in Broken Arrow annual update

Economic Development Manager Jennifer Rush introduced the Tulsa County Court Clerk Don Newberry, and Randy Profit with Tulsa County. She stated her team has enjoyed partnering with Tulsa County, Mr. Newberry, and Mr. Profit on the marriages, and she felt the joint satellite office provided a great atmosphere creating memories of the Rose District which would last beyond eating and shopping.

Tulsa County Clerk Don Newberry stated Tulsa County has been partnering with Broken Arrow in a Broken Arrow satellite office for a few years and it has been a great thing. He reported last year 37 percent of the marriage licenses in Tulsa County came from this Broken Arrow satellite office; this was about 1,613 marriage licenses. He stated he believed there would be more this year. He indicated it was expected that April 24 would be the biggest day for marriages yet, as it would be 4/24/24. He thanked City Council and Broken Arrow for allowing this partnership and allowing a satellite office in Downtown Broken Arrow.

Mayor Wimpee asked if the office did anything other than marriage licenses.

Mr. Newberry responded the office now allowed some civil filings, but these were limited. He noted there was a little confusion, and a few divorce filings came through this office, but this was not the plan and was no longer being allowed. He stated some pleadings and civil filings were being processed to try to assist Broken Arrow attorneys.

Council Member Lisa Ford noted there were some dates in December on which residents could pay property taxes at this office.

Mr. Newberry agreed, noting homestead exemptions were also occasionally done in this office.

Council Member Ford noted the staff at the satellite office were wonderful, always friendly, and welcoming.

Mr. Newberry agreed. He explained to get married a couple was required to obtain a marriage license, then after the wedding the minister would have to return the license to the office, and this office took in a lot of these returns.

Vice Mayor Christi Gillespie stated she understood a resident could do a homestead exemption online.

Mr. Newberry concurred. He indicated filing a homestead exemption online was fine as long as it was done before the cutoff date.

B. 24-476

Approval of and authorization to execute a proclamation declaring the week of April 14 - 20, 2024, as National Telecommunicators Week

Police Chief Brandon Berryhill reported the Association of Public-Safety Communications Officials (APCO) International, and the National Emergency Number Association (NENA), celebrated the week of April 14-20, 2024 as National Public Safety Telecommunicators Week. He stated Broken Arrow's telecommunicators, or 911 dispatchers, were the first, First Responders; they were there first point of contact when a resident needed help. He reported the Broken Arrow Public Safety Communications Center answered over 49,000 9-1-1 calls last year and over 173,000 calls total. He stated over the past few years City Council has been kind and added five more dispatch positions to the dispatch center, and the dispatch center would soon be fully staffed, as soon as one more position was filled. He stated today Mr. Stephen Bradley was present, Mr. Bradley was the Communications Director and had been an employee with the City of Broken Arrow for 42 years. He indicated Major John Walls and Police Captain Brandon Tener were also present; these were the sworn officers over the Support Division.

Major John Walls stated the Broken Arrow Police Department Communications Division was

responsible for answering all emergency and non-emergency calls for the City of Broken Arrow. He indicated these calls included citizens in need of police, fire, medical, animal control and other City Services such as sewer backups, water line breaks, etc. He indicated the Dispatch Center currently executed its mission with an authorized strength of 19 dispatchers, 4 call takers, 4 shift supervisors, with Mr. Bradley at the helm, and Mr. Brandon Reynolds as Mr. Bradley's assistant. He stated Broken Arrow was the only dispatch center in Broken Arrow taking care of all public safety dispatching. He explained dispatchers and call takers received calls from citizens in distress and in need of emergency services. He stated unfortunately, the citizens who called in were often having the worst day of their lives. He stated communications personnel worked through the chaos, emotion, and stress to obtain vital information which helped determine the necessary response and provide services quickly and efficiently. He indicated dispatchers were required to act effectively and professionally with callers, and with first responders in route to, or already on scene of, high stress situations. He explained the job of a telecommunicator at times was extremely stressful; shift work, as well as working weekends and holidays was undesirable, but necessary. He stated telecommunicators were easy to forget tucked away in the Communication Center of the Public Safety Complex but were the voices behind the badge who worked tirelessly to keep citizens and first responders safe. He stated the Broken Arrow Police Department recognized the vital role of telecommunicators in maintaining order and safety in Broken Arrow. He stated today and every day the Broken Arrow Police Department thanked the telecommunicators for their dedication to the mission and the citizens of Broken Arrow.

Chief Berryhill commended and thanked the Broken Arrow Telecommunicators.

Council Member Ford stated Broken Arrow just had a citizen survey, with almost 4,000 resident responses, and Broken Arrow's Police Dispatch got an 85 percent positive rating which was spectacular. She praised the Broken Arrow communication officers who were the best in the State of Oklahoma. She thanked Mr. Bradley for his amazing leadership.

Mr. Bradley stated the Dispatch Center received a high rating because it had fantastic employees.

Mayor Wimpee read the Proclamation: "WHEREAS, dedicated Telecommunicators, for the City of Broken Arrow, provide dramatic life-saving services by talking distressed callers through CPR, Heimlich maneuver, childbirth instruction, calming hysterical crime victims, and they make difficult decisions using limited information to save lives or reduce property damage on a daily basis; and WHEREAS; The 911 System contributes substantially to the health and safety of the Citizens of Broken Arrow through the timely delivery of emergency calls to the correct emergency response agency and the automatic identification of the caller's phone numbers and locations; and WHEREAS; The prompt response of police, firefighters and medics is critical to protecting life and preserving property. It also results in the apprehension of criminals, the suppression of fires and timely treatment of the ill and injured; and WHEREAS; The men and women of the Broken Arrow Public Safety Communications Center have conscientiously answered thousands of emergency calls during the past year and provided fast assistance and needed assurance to victims of accidents, crime and illness; and WHEREAS, the critical functions performed by these Telecommunicators, play a significant role in the daily lives of approximately one-hundred thousand plus Broken Arrows; and WHEREAS, these Telecommunicators provide the vital link between the Citizens in need of help and Public Safety first responders; WHEREAS, Congress, in cooperation with the Nation Emergency Number Association and the Associated Public-Safety Communications Officials, has set aside the second week in April to recognize the efforts of these dedicated people; NOW, THEREFORE, I, Debra Wimpee, Mayor of the Broken Arrow, do hereby proclaim April 14-20, 2024 as: TELECOMMUNICATOR APPRECIATION WEEK and encourage all citizens of Broken Arrow to recognize the value of this system in our daily lives and to acknowledge the dedicated people who oversee its operation every minute of every day for our safety. IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Broken Arrow to be affixed this 16th day of April, Two Thousand Twenty-four."

Commemorative photos were taken.

MOTION: A motion was made by Lisa Ford, seconded by Christi Gillespie. **Move to approve and authorize execution of a proclamation declaring the week of April 14 - 20, 2024, as National Telecommunicators Week**

The motion carried by the following vote:

Aye: 5 -

Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

C. 24-522

Consideration, discussion, and possible action on an appeal to the Hearing Officers for property owner Adam Makin at 204 W Pittsburg Pl, Broken Arrow, Oklahoma allowing a Short-Term Rental property to be licensed within the 300' radius of another established Short-Term Rental property

Planning and Development Manager Amanda Yamaguchi reported owner Adam Makin at 204 W Pittsburg Pl applied for a Short-Term Rental Zoning Clearance Permit on January 29, 2024. She reported Staff reviewed the Zoning Clearance Permit on February 14, 2024, and denied the permit due to the fact there was an existing Short-Term Rental property within the 300' Radius. She noted the Zoning Ordinance indicated Short-Term Rentals cannot be within a 300' radius of an existing Short-Term Rental property; the Short-Term Rental License for 1601 Ash Pl, within said radius was approved on December 13, 2023. She stated the property owner requested an Appeal of the decision to City Council. She stated City Council voted to continue this item on March 5, 2023; City Council requested a notification letter to be sent to property owners within a 300 foot radius, which was completed by City Staff.

The applicant, Adam Makin, stated he blocked off the dates of his short term rental per the request of City Council. He noted he felt approval of his application would not set a precedent as he was unable to get a permit previously due to the parking restrictions. He stated his neighbors were present to speak on his behalf.

Mr. James Crabtree indicated he had lived in his home, 200 W. Pittsburg Place, for many years and he had no issues with Mr. Makin having a short term rental at 204 W. Pittsburg Place. He stated Mr. Makin kept the property very nice and there were no problems with renters.

Mayor Wimpee indicated Mr. Jay Clark did not wish to speak but was in support of Mr. Makin's application, noting Mr. Makin's home was well maintained, Mr. Makin was respectful and responsive, and there were no issues with guests.

Vice Mayor Gillespie stated she felt it was important neighborhoods did not become hotels; this was the reason the Ordinance was established. She said she felt this appeal could be justified as the process had started before the Ordinance was established.

Council Member Justin Green asked if all the other ordinance requirements were now met, such as parking.

Ms. Yamaguchi responded all criteria were met per zoning ordinance except for the 300 foot radius requirement.

Vice Mayor Gillespie asked if any other citizens contacted the City.

Ms. Yamaguchi responded there were no phone calls, no questions, no emails. She stated if Mr. Makin were approved, he would still need to go through the maintenance inspection, but there were no other zoning issues.

Mr. Makin noted he passed the inspection just before he applied for the permit, but he understood it was an annual inspection.

Council Member Johnnie Parks stated there was a date modification which needed to be made in the application.

Ms. Yamaguchi agreed and indicated the correction would be made.

MOTION: A motion was made by Johnnie Parks, seconded by Christi Gillespie. **Move to approve the appeal to the Hearing Officers for property owner Adam Makin at 204 W Pittsburg Pl, Broken Arrow, Oklahoma allowing a Short-Term Rental property to be licensed within the 300' radius of another established Short-Term Rental property**

The motion carried by the following vote:

Aye: 4-
Abstain: 1 -

Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee
Justin Green

D. 24-529

Presentation and discussion of Street Closure Permit for the lane closure of eastbound traffic on Houston St. immediately east of 23rd St.

Director of Engineering and Construction Charlie Bright reported there was a process for street closure permits; this process went through Staff and the ultimate authority rested with City Manager Spurgeon. He noted he was not asking for any action from City Council, but as this was a significant road closure he wanted to bring this to the City Council's and the public's attention. He stated Sherwood Construction was constructing the road widening project in conjunction with ODOT on 23rd Street from Houston to Kenosha. He explained as part of the project, Sherwood Construction was improving the intersection at Houston and 23rd Street as well as the approaches in each direction. He indicated the current road and obstructions on either side made the road too narrow to do work on one shoulder or the other and still have room for two-way traffic. He stated he was yet unsure of the plan, but ultimately there were a couple of recommended plans of action, one being multiple one day closures where only one lane of traffic was allowed eastbound and shutting down westbound traffic. He stated the other option was a four or five day complete shutdown in both

directions, but all the work could be done in that time. He stated City Staff was working with ODOT and Sherwood to try and plan it on a day that had minimal impact on citizens and school bus traffic. He stated while he did not have an exact date or plan; the Communications Team would be notified when a plan was put into place.

Vice Mayor Gillespie asked if westbound traffic would go through.

Mr. Bright explained if the plan was to allow one way traffic, on certain days the eastbound traffic would go through, and on certain days the westbound traffic would go through. He noted if the plan was to shut down both directions of traffic the project would go more quickly and both sides would be done at once.

Council Member Parks noted it would be best to get the project done as quickly as possible.

Mr. Bright agreed. He discussed the difficulty in doing the project over the weekend and why the project needed to be done during the week.

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)

Mayor Wimpee indicated one Citizen signed up to speak. The citizen did not come forward to speak.

9. General Council Business

- A. 24-317 Consideration, discussion, and possible approval to execute a Professional Consultant Agreement with Crossland Heavy Contractors Inc. for Construction Management Services for the Events Park Infrastructure Project (Project No. 2417210)**
- Mr. Charlie Bright indicated this was in relation to the Sunset Amphitheater. He stated it was decided to hire a construction manager for this project. He stated this Contract was with the construction manager. He indicated Staff went through the process of obtaining proposals from several construction managers, received three proposals, and made a unanimous decision to choose Crossland Heavy Contractors. He explained this was the base contract for the services, for construction, and the fee for assistance with preconstruction services. He noted Crossland had been a part of the team so far, helping with the design, and planning the design in a way which got Broken Arrow to the desired end date, working on constructability and everything else involved. He stated after this, at the next meeting, an amendment would be added to the contract which would be the GMP, the guaranteed maximum price for construction. He explained this contract was the fee for preconstruction services.

Council Member Parks asked if this was for the Broken Arrow construction portion of the project.

Mr. Bright responded in the affirmative.

MOTION: A motion was made by Johnnie Parks, seconded by Justin Green.
Move to approve and authorize execution of a Professional Consultant Agreement with Crossland Heavy Contractors Inc. for Construction Management Services for the Events Park Infrastructure Project (Project No. 2417210)

The motion carried by the following vote:

Aye: 5 -

Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

B. 24-411

Consideration, discussion, and possible award of the lowest responsible bid to A&A Asphalt, Inc., and approval and authorization to execute a construction contract for the North 23rd Street Rehabilitation (Project No. ST4210)

Mr. Zack Smith reported this was for resurfacing as well as reconnecting some sidewalks which had gaps and reconstructing the islands near Kenosha and 23rd Street. He stated Staff worked very swiftly with the consultant on this project to ensure it would not impact the schools; therefore, everything was being done outside of school session, after Memorial Day Weekend and prior to the start of school in the fall. He indicated Staff recommended award to the second lowest bidder which was the lowest responsible bidder in the amount of \$923,957.70 dollars, approximately \$45,000 dollars more than the lowest bidder; however, after the City vetted the lowest bidder there were significant concerns based on previous project experience.

Vice Mayor Gillespie stated she appreciated Staff vetting the bidders and making this recommendation.

MOTION: A motion was made by Christi Gillespie, seconded by Johnnie Parks.
Move to award the lowest responsible bid to A&A Asphalt, Inc., and approve and authorize execution of a construction contract for the North 23rd Street Rehabilitation (Project No. ST4210)

The motion carried by the following vote:

Aye: 5 -

Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

C. 24-434

Consideration, discussion, and possible approval of and authorization to execute Resolution No 1569, a Resolution of Necessity to file a Small Claims action against SAHIL LLC, Broken Arrow Inn located at 835 N 1st St Pl Broken Arrow OK 74012 for failure to report and or pay Hotel Occupancy Tax owing for the period of September 2023 to February 2024

Mayor Wimpee indicated this Item was pulled from the Agenda; no action was required or taken.

Finance Director Cindy Arnold explained why this Item was pulled from the Agenda noting the hotel in question paid the required taxes.

D. 24-435

Consideration, discussion, and possible approval of and authorization to execute Resolution No 1570, a Resolution of Necessity to file a Claim in District Court against L.S. Multabi, owner of Homewood Suites located at 4900 Madison Pl. Broken Arrow OK 74012 for failure to report and or pay Hotel Occupancy Tax owing for the period of September 2023 to February 2024

Finance Director Arnold reported According to the Broken Arrow Code Sec. 22-112 there was levied an excise tax of four percent (4%) upon the gross proceeds or gross receipts derived from all rent for every occupancy of a room or rooms in a hotel in the City. She stated the owner of Homewood Suites was notified multiple times but failed to file or pay taxes for the past six months. She explained this Item would grant permission if needed to file in the District Court to collect the \$49,674.65 dollars owed in taxes. She stated before the legal documents were filed, she planned to reach out personally to the hotel owner.

Council Member Lisa Ford asked if Homewood Suites met the criteria in place for the program Officer Peale started with hoteliers in Broken Arrow.

Assistant City Manager of Administration Norm Stephens indicated he had a report from Chief Berryhill with an update about this program which he would send to City Council.

MOTION: A motion was made by Christi Gillespie, seconded by Lisa Ford.

Move to approve and authorize execution of Resolution No. 1570

The motion carried by the following vote:

Aye: 5 -

Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

E. 24-484

Consideration, discussion, and possible appointment of two City Council members and one external representative, Jeff Hewitt, to the Broken Arrow Finance Audit Committee

Ms. Arnold reported on December 17, 2019 the Council adopted Ordinance No. 3607 establishing the Broken Arrow Finance Audit Committee. She stated the Committee met for a little while, but had drifted, and she wished to get the Committee started again. She explained Ordinance stated the Committee would consist of three members, two City Council members and one external representative appointed by the Mayor. She noted Mr. Jeff Hewitt was interested as the external representative. She stated Staff recommended City Council appoint two Council Members and Jeff Hewitt as the external representative.

Discussion ensued and City Council chose to appoint Council Member Parks and Mayor Wimpee to serve on the Broken Arrow Finance Audit Committee.

MOTION: A motion was made by Justin Green, seconded by Lisa Ford.

Move to appoint Council Member Parks, Mayor Wimpee, and Jeff Hewitt to serve on the Broken Arrow Finance Audit Committee

The motion carried by the following vote:

Aye: 5 -

Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

Discussion ensued regarding when the Committee would meet.

Council Member Ford indicated she appreciated Mr. Jeff Hewitt volunteering to serve on the Committee once again.

F. 24-524

Consideration, discussion, and possible approval of the reappointment of Jonathan Townsend to the City of Broken Arrow Planning Commission for a three-year term, to expire May 5, 2027

Rocky Henkel reported Planning Commission members were appointed to serve three-year terms. He stated Mr. Townsend was originally appointed by City Council on May 1, 2021 and his current three-year term was set to expire on May 5, 2024. He indicated Jonathan Townsend was recommended to continue serving on the Planning Commission by Councilor Parks. He noted Mr. Townsend expressed his willingness to serve a three-year term to expire May 5, 2027.

MOTION: A motion was made by Johnnie Parks, seconded by Lisa Ford.

Move to reappoint Jonathan Townsend to the City of Broken Arrow Planning

Commission for a three-year term, to expire May 5, 2027

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

G. 24-526 Consideration, discussion, and possible approval of the reappointment of Jason Coan to the City of Broken Arrow Planning Commission for a three-year term, to expire May 5, 2027

Mr. Henkel reported Mr. Coan was originally appointed by City Council on May 1, 2021, and his current three-year term was set to expire on May 5, 2024. He stated Jason Coan was recommended to continue serving on the Planning Commission by Councilor Ford and expressed his willingness to serve a three-year term to expire May 5, 2027.

MOTION: A motion was made by Lisa Ford, seconded by Christi Gillespie.
Move to reappoint Jason Coan to the City of Broken Arrow Planning Commission for a three year term, to expire May 5, 2027

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

H. 24-527 Consideration, discussion, and possible approval of the reappointment of Jaylee Klempa to the City of Broken Arrow Planning Commission for a three-year term, to expire May 5, 2027

Mr. Henkel reported Mrs. Klempa was originally appointed by City Council on August 20, 2019 to replace a commissioner who resigned; her current three-year term was set to expire on May 5, 2024. He indicated Jaylee Klempa was recommended to continue serving on the Planning Commission by Vice Mayor Christi Gillespie and Mrs. Klempa has expressed her willingness to serve a three-year term to expire May 5, 2027.

MOTION: A motion was made by Christi Gillespie, seconded by Justin Green.
Move to reappoint Jaylee Klempa to the City of Broken Arrow Planning Commission for a three-year term, to expire May 5, 2027

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

I. 24-514 Consideration, discussion, and possible approval of a 30-60 day extension to adopt the updated Zoning Ordinance

Mr. Henkel reported in November 2023 Staff brought the Zoning Ordinance changes to City Council, and at that time it was decided to table this for 90 days to process additional input. He noted the 90 day extension was set to expire yesterday. He indicated City Staff now had additional information which needed to be vetted and asked for an extension for another 60 days.

Council Member Parks noted the new Zoning Ordinance had not been adopted.

Mr. Henkel concurred and requested the 30 to 60 day extension before the new Zoning Ordinance was brought before City Council for adoption.

Vice Mayor Gillespie stated it was good City Staff was carefully vetting all information before jumping in and updating the Zoning Ordinance.

Mayor Wimpee agreed.

City Manager Spurgeon recommended holding a special meeting to go over the Zoning Ordinance before it was adopted during a regular City Council meeting.

City Council agreed.

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

Move to approve a 30-60 day extension to adopt the updated Zoning Ordinance

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

J. 24-466 Consideration, discussion, and possible action regarding BAZ-001334-2024 (Rezoning) and SP-001335-2024 (Specific Use Permit), Floral Haven Expansion, 27 acres, A-1 (Agriculture) and R-1 (Single Family Residential) to A-1 (Agriculture)/SP-001335-2024, north of West Kenosha Street (East 71st Street South), and one quarter mile west of South Olive Avenue (South 129th East Avenue)
Ms. Amanda Yamaguchi reported BAZ-001334-2024 and SP-001335-2024 was a request to change the zoning designation on 27 acres from A-1 (Agriculture) and R-1 (Single Family Residential) to A-1/SP-001335-2024. She stated the property was located approximately north of West Kenosha Street (East 71st Street South), and one quarter mile west of South Olive Avenue (South 129th East Avenue) and was currently un-platted. She stated SP-001335-2024 was a specific use permit to allow for the expansion of the Floral Haven

Cemetery, which was directly to the east of the subject tract. She stated according to the zoning ordinance, a cemetery was only allowed in the A-1 district with a specific use permit; this was why SP-001335-2024 was submitted to support a cemetery use. She reported on March 28th, 2024, BAZ-001334-2024 and SP-001335-2024 were heard by Planning Commission. She noted one neighbor emailed in a letter of support for the proposal; during the public hearing, 4 community members spoke in opposition, concerns included health concerns, fence requirements, loss of nature, and property value. She indicated Planning Commission recommended approval of BAZ-001334-2024 and SP-001335-2024 subject to:

- 1) A new legal description being submitted that is similar to the proposed development area in the conceptual site plan being submitted to staff before the city council hearing;
- 2) Platting be waived subject to all of the necessary easements and ROW being dedicated;
- and 3) An opaque fence being required along the property line where the SP abuts a neighboring property.

She noted this recommendation passed with a 4-0 vote. She stated Staff recommended approval of BAZ-001334-2024 and SP-001335-2024 per Planning Commission's recommendations.

Mayor Wimpee noted several citizens spoke in opposition to this Item during the Planning Commission meeting.

Vice Mayor Gillespie noted there was a citizen with a specific concern about the small area adjacent to the RV park.

Ms. Yamaguchi displayed the map which illustrated the proposed development area. She noted there was a little confusion because the application was submitted for the entire parcel, so the applicant went back and revised the legal description to only include the small portion which would be developed. She stated if the cemetery wished to develop any further portion of the property it would have to come back to Planning Commission and City Council to revise the specific use permit.

Council Member Green asked about the platting waiver.

Ms. Yamaguchi explained typically to develop property it was required to be platted; however, for a cemetery type use there was not much to be gained by platting, there were not a lot of utilities required, so the right-of-way and utility easement dedications would be primarily along the arterial street. She stated if these were dedicated in accordance with the City Codes and Ordinance there was no reason not to waive the platting requirement for the rest of the property.

Mayor Wimpee asked how much the fee would be.

Ms. Yamaguchi indicated there was no fee associated with dedicating right-of-way or utility easements, there would be the fee associated with any survey needed and the fee for filing was \$25 dollars.

Council Member Parks noted the road to the south was a private entrance road and the City would not need any right-of-way.

Ms. Yamaguchi concurred. She said the only place right-of-way was needed was along Kenosha Street. She indicated this right-of-way was about 60 feet.

Council Member Parks asked if the City had right-of-way in this location.

Ms. Yamaguchi responded in the negative; this was the requested right-of-way dedication.

Vice Mayor Gillespie stated she would like to request dedication of right-of-way along Olive from Floral Haven. She asked if this application could be held until a request for the right-of-way along Olive was made.

Deputy City Attorney Danny Littlefield responded the Item could be tabled and a request could be made.

Vice Mayor Gillespie explained the City had been trying to obtain right-of-way from Floral Haven, and it had nothing to do with the local operators of Floral Haven, but the corporate office. She explained Broken Arrow was trying to widen Olive and was unable to obtain the right-of-way due to the exorbitant cost. She stated she would make a motion to table this item requesting the right-of-way along Olive, as well as the right-of-way along Kenosha.

The applicant, Lou Reynolds, stated he was in agreement with Staff recommendations, but was not in agreement with tabling this in an effort to obtain right-of-way from Floral Haven along Olive. He stated the Supreme Court required a direct nexus between what City Council was asking for and what Floral Haven was asking for. He said there was no connection between what was fronting Kenosha and what was fronting Olive. He asked City Council to

consider this as recommended by Staff.

Council Member Parks asked if Mr. Reynolds was in agreement with dedicating right-of-way along Kenosha.

Mr. Reynolds responded in the affirmative.

Mayor Wimpee asked if Mr. Littlefield agreed with Mr. Reynolds' assessment.

Mr. Littlefield responded there was some case law out there; however, he would say if Broken Arrow wished to make an offer to Floral Haven, the City had a right to do so. He stated this Item could be tabled and the City could make an offer and then bring this back.

Vice Mayor Gillespie stated City Council was not saying it would not approve this specific use permit application, it was just tabling the matter for now pending an offer to Floral Haven for the necessary right-of-way on Olive.

MOTION: A motion was made by Christi Gillespie, seconded by Lisa Ford.
Move to table Item 9J and request the right-of-way along Olive, as well as the right-of-way along Kenosha

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

K. 24-516

Considerations, discussion, and possible approval of PUD-001360-2024 and BAZ-001206-2023 (Rezoning), Spring Creek Crossing, 38 acres, A-1 (Agricultural) to RS-4 (Single-Family Residential) and PUD (Planned Unit Development)-001360-2024, located north of Tucson Street (121st Street), one-quarter mile west of 9th Street (177th East Avenue/Lynn Lane Road)

Ms. Yamaguchi reported PUD (Planned Unit Development)-001360-2024 and BAZ-001206-2023 were concurrent applications to rezone 38 acres from A-1 (Agricultural) to RS-4 (Single-Family Residential) and PUD-001360-2024 for Spring Creek Crossing. She stated this property was generally located north of Tucson St (121st St), one-quarter mile west of 9th St (177th E Ave/Lynn Lane Rd); the property was presently undeveloped and unplatted. She stated the applications pertained to land uses and lot sizes but did not consider homes sizes or prices as these were not part of the zoning ordinance. She stated the proposed Spring Creek Crossing development consisted of single-family residential homes on individual lots. She indicated the maximum number of dwellings proposed in the development was 145, with a minimum lot size of 50-feet by 100-feet or 5,000 sq ft. She stated per the standards RS-4 zoning district, 214 lots would be permitted. She reported the PUD proposed a minimum of 15%, or approximately 5.7 acres of open space in the form of stormwater detention pond reserve areas, interconnected walking trails/sidewalks, community gardens, and/or parks. She stated the development would be served by public street and the primary access point would be from one entry off Tucson Street, which aligned with South 3rd Street. She indicated an existing stub street at the East Raleigh Street would provide connection from the South Ridge Park subdivision to the west. She noted per the Broken Arrow Subdivision regulations (Section 6.3.c.1) a gate may not be installed on public streets. She stated the Engineering Design Criteria Manual required a Traffic Impact Analysis (TIA) be performed by a proposed development if the development met the criteria established in the Oklahoma Department of Transportation Policy on Driveway Regulations for Oklahoma Highways. She stated this would be evaluated during the platting process. She indicated the developer committed to the installation of a traffic signal at Tucson Street and South 3rd Street as a part of this development. She explained RS-4 zoning was considered to be in accordance with the Comprehensive Plan in Level 2 and the PUD-001360-2024 was proposed to be developed in accordance with the RS-4 district of Zoning Ordinance except as specified in the design statement included in the agenda packet. She stated all changes were in accordance with the RS-C district of the proposed Zoning Ordinance previewed by City Council on November 7, 2023. She explained this application originally came forward under the assumption that the Zoning Ordinance would be passed, and since the City was not ready to adopt the new Zoning Ordinance, the applicant was coming forward with an application and PUD identical to what the new code would have been if it had been approved.

Ms. Yamaguchi reported the applicant held a Community Meeting on Thursday, March 21st at 6:00 p.m.; thirteen residents attended the meeting and asked questions relating to traffic, fencing, detention ponds, and the 50-foot buffer areas. She reported a petition in opposition to this development was submitted to the City Clerk's Office on Monday, March 25, 2024. She indicated the petition had 91 signatures representing 37 property owners in the surrounding 300-foot radius of the subject tract. She stated an independent analysis of this petition was done by INCOG (Indian Nation Council of Governments) to determine the percentages of property represented by the petition. She stated per the analysis, 22 percent of the properties located inside the 300 foot radius, excluding the right-of-way and subject tract, were represented by the petition. She stated per the stated statute this submitted petition did not represent the minimum land area of 50 percent required to trigger a three-fifths vote by

City Council for approval. She stated this item was considered by the Planning Commission on March 28, 2024 and was recommended for approval (4-0 vote). She stated nine residents spoke in opposition to this development at the meeting. She noted primary concerns include traffic increases on Tucson Street and through the existing neighborhoods, increased burden on the school system, unproportionate density of the proposed development, and fencing along the 50-foot buffer areas. She reported Assistant City Manager, Kenny Schwab, spoke to the traffic in the area in relationship to the schools. She noted Mr. Schwab provided a traffic report which was included in the agenda packet. She stated Commissioner Goranson, Vice Chairman of the Planning Commission, showed a map of elementary and middle school enrollment boundaries to show the total area of land that each school encompassed and explained development anywhere within these boundaries would have an impact on the school system. She noted these documents were also attached to this report. She stated the applicant provided calculations on the density of the proposed development and the proposed development has a maximum density of approximately 3.91 units per acre, the neighboring addition to the west of the proposed development had an existing density of approximately 3.21 units per acre. She stated perimeter fencing along the 50-foot buffer areas was not required by the Zoning Ordinance. She noted fencing would be required along the arterial street frontage of the property. She stated per the proposed PUD, trees and existing vegetation in the 50-foot buffer was to remain in its current state unless it was required to be removed to facilitate trail construction. She indicated if a new fence were to be required along the east and west boundaries of the property, it would be possible that a large portion of existing trees would be removed. She stated 66 residents submitted forms stating their opposition to the development prior to the meeting but did not wish to speak; 5 residents submitted forms indicating support of the development. She noted there were several attachments to the Staff Report. She stated Staff recommended approval of PUD-001360-2024 and BAZ-001206-2023 per Planning Commission and Staff recommendations.

Council Member Parks asked how many lots would be permitted on this land if it were not a PUD.

Ms. Yamaguchi responded the land would permit 214 lots with straight RS-4 zoning, and the PUD would reduce the number of lots to 145.

Vice Mayor Gillespie asked how many lots would be allowed with RS-3 zoning.

Ms. Yamaguchi responded RS-3 zoning would allow 189 lots which would be an increase to approximately 5.12 units per acre.

Mayor Wimpee asked if Broken Arrow had any RS-4 developments between an RS-2 and an RS-1 anywhere in the City of Broken Arrow.

Ms. Yamaguchi responded in the affirmative. She stated Broken Arrow had approximately 18 properties of a similar development type to this. She noted not all of the developments were RS-4 but were RS-3 with a PUD which made the lot sizes similar to an RS-4.

Council Member Parks asked if the new Zoning Ordinance update had been approved if this would have been developed without a PUD.

Ms. Yamaguchi responded in the affirmative; if the Zoning Ordinance had been approved as it was previewed, this development would meet the new Zoning Ordinance without a PUD.

Vice Mayor Gillespie stated she sent in many questions before today's meeting. She noted where she lived was an R-2 subdivision next to an R-4 subdivision and there was another development she thought was R-4, but it turned out to be a multifamily development which had been unaware of until today.

Mayor Wimpee asked what could be developed on this property if this application were denied.

Ms. Yamaguchi responded the property could be developed as single family residential per the Comprehensive Plan and there was a range of different lot sizes from RS-2 to RS-4.

Council Member Parks asked if this PUD were denied, could more houses be built on the property than were proposed with the PUD.

Ms. Yamaguchi responded it would be a possibility.

Council Member Parks stated he liked a PUD as it gave the City a little more control over how a property was developed and the City could ask for certain things such as a certain number of trees to be planted or a certain percentage of brick façade on houses, etc.

Ms. Yamaguchi noted the RS-4 zoning did not require any buffer between existing

neighborhoods and proposed neighborhoods, so if this were straight RS-4 zoning there would be backyards abutting existing neighborhoods, while this PUD provided a 50 foot buffer area between to provide a transition for the neighbors and new homeowners.

Vice Mayor Gillespie noted her neighborhood shared backyard fences with the neighboring subdivision.

Ms. Yamaguchi noted this PUD locked in 5.7 acres of open space which could be anything from a detention pond to a trail in the 50 foot buffer; this would not be required by straight zoning.

Mayor Wimpee noted there was concern about the stub street. She stated when there was a stub street, neighborhoods knew that at some point a new development would connect. She asked if there was any possibility of having an emergency gate in this location.

Ms. Yamaguchi responded emergency access was required and she did not know if the Fire Department would have an issue as long as the gate had a Knox Box; however, Planning and Engineering Divisions would not support an emergency gate as stub streets were put in for the express purpose of connectivity. She stated it was important for everyone, including fire, police, trash services, school buses, etc., to have access.

Mayor Wimpee noted the concern was this would become a through-street due to the difficulty in exiting onto 121st Street.

Council Member Parks stated he did not think it would become a through-street due to the fact that it was quite a distance to get through the existing subdivision over to Elm Place while the new proposed division would have a traffic light to ease entry and exit.

Ms. Yamaguchi noted it would be possible for residents to go through to Elm Place.

Vice Mayor Gillespie asked what would be developed to the north of this property between the subdivisions and the highway.

Ms. Yamaguchi noted there was very little space between the turnpike and this property. She said the Comprehensive Plan called for a frontage road along the property and part of this plan did designate right-of-way to be dedicated. She noted the City would not require the developer to build the frontage road because there was nothing for it to connect to, but the right-of-way would be set aside and dedicated to the City.

Vice Mayor Gillespie asked if the road going into Life Church could ever connect into the stub streets going to the north.

Ms. Yamaguchi responded the Life Church road was a private street. She stated Life Church had some property on the east side of the building which was not developed and if Life Church ever decided to develop this land the street would almost have to become public to provide public access to the lot to the east.

Council Member Parks asked if Life Church donated part of its property to the City for a service road.

Ms. Yamaguchi responded she did not believe the Church dedicated any land for the frontage road; Life Church was platted prior to the Comprehensive Plan adopted in 2019 which required the frontage road.

Council Member Green asked if there were any statements from the Schools about the concerns regarding overcrowding as a result of this development.

Assistant City Manager over Operations Kenny Schwab stated at approximately 3:50 p.m. today Broken Arrow Public Schools' Administration indicated it was not in opposition to this development and took a neutral stance. He stated Broken Arrow Public Schools had a bond package which just went through which included the addition of pods to five elementary schools. He noted this elementary school would not have added pods, but there were plans in place. He stated he felt the schools would do some redistricting to fit the new bond program.

Vice Mayor Gillespie noted she understood a new Eighth Grade Center was being built to take Broken Arrow eighth graders.

Council Member Green stated the Eighth Grade Center would not take all eighth graders from all middle schools; it was just an expansion to accommodate more eighth graders at the one school. He noted there was not enough financing to do a whole Eighth Grade Center.

The applicant, Megan Pasco with Rausch Coleman, stated this was Spring Creek Crossing,

approximately 37 acres. She stated when this project began the developer met with both the schools and the neighbors before filing an application. She stated in these meetings the two biggest concerns were traffic and safety and the land buffers between existing residential and the new development. She stated there would be 50 foot buffers and a traffic light installed by the developer lined up on third with the main entrance to the two schools. She reported the site plan she presented to City Council was a conceptual site plan. She stated the developer was guaranteeing a maximum of 145 lots on the property; however, the site plan had 131 lots. She said personally she would like to see a few more lots on the property, but she believed the number of lots would actually go down. She stated the site plan fit within the Level 2 Comprehensive Plan designation. She noted she felt the proposed site plan was a close match to the subdivision to the west in South Ridge park with a similar density level. She stated overall she felt this property met the intentions of the Comprehensive Plan.

The applicant, Kyle Richeson, Division President for Rausch Coleman Homes, stated Rausch Coleman was a family owned business for over 70 years and had invested in the Broken Arrow area for almost 20 years. He stated Rausch Coleman built quality, affordable homes and had a mission to improve quality of life one home at a time. He stated Rausch Coleman Homes built homes to last and provided a comprehensive 10 year warranty for every single home it built. He stated Rausch Coleman participated in a third party builder survey conducted by Avid Surveys which compared home builders across the country in 10 different categories. He noted in 2023 Rausch Coleman was number one in all 10 categories and retained a 94% customer satisfaction rating which was the highest in the country. He reviewed a chart illustrating the evolution of homeownership and discussed the importance of a first step home and the importance of a downsizer home. He noted the economists who conducted the recent Broken Arrow Housing Survey indicated without middle density a community would suffer from the “broken ladder effect.” He displayed and discussed charts, provided by Avid Surveys, showing Rausch Coleman Homes’ homebuyer demographics. He noted based on a national survey chart, a purchaser had to bring in \$11,000 dollars in income to afford a median home price. He stated with an average sale price of \$225,000 dollars for Rausch Coleman Homes in the area, at a 7.25% interest rate, on a 30 year FHA mortgage, the mortgage would cost over \$2,000 dollars per month. He stated this meant, even if you made over \$100,000 dollars per year, if you had liabilities around \$2,900 dollars a month, you would not qualify to purchase a Rausch Coleman Home. He displayed and discussed a chart illustrating the four most popular floor plans of Rausch Coleman Homes, and the costs of these homes. He noted the average price would be about \$252,000 dollars which would equal a monthly payment of as high as \$2,300 dollars a month. He discussed the due diligence performed by Rausch Coleman through meetings with the City, with Broken Arrow Public Schools, with concerned neighbors, with the community (at which a survey was distributed asking additional questions and no responses were received), and with Planning Commission. He discussed the concessions made by Rausch Coleman as a result of these meetings including the traffic light installation, the addition of a 50 foot buffer to the east and west, the increased lot sizes on the east side of the property which abutted the R-1 zoning, and the three ponds on the east side of the property. He noted a private construction tour through a Rausch Coleman Home was offered to allay any concerns regarding quality of construction, and there were no takers. He stated at the Planning Commission meeting the development was unanimously recommended for approval. He stated while not everyone would agree on what Rausch Coleman built, or where Rausch Coleman built it, Rausch Coleman had a mission to improve lives one home at a time. He noted it was not secret Broken Arrow home inventory was low and affordability was getting further and further out of reach. He noted the size of a home did not determine the quality of a home Rausch Coleman was proud of the quality of its homes. He stated the price of a home did not determine the quality of the family which lived in a home. He indicated south Broken Arrow was not an exclusive community and Broken Arrow valued everyone. He asked City Council to consider the families who dreamt of home ownership but would not be able to purchase a home if homes such as Rausch Coleman built were not available.

Council Member Parks asked if these homes would have brick façades.

Mr. Richeson responded all front elevations would have brick façades. He stated unfortunately, especially with installation of the traffic light, it would get really difficult to meet the median home price point with the addition of a full brick façade. He noted the homes which abutted 121st Street and the Creek Turnpike would have full brick façades.

Council Member Green stated this development was in his Ward, so he went door to door and spoke with the neighbors. He noted some of the concerns included whether there would be trees planted in the buffer zone if there were no preexisting trees.

Mr. Richeson stated this was difficult to include in a PUD, but Rausch Coleman had a reputation to maintain and would plant trees where needed.

Vice Mayor Gillespie stated one of her biggest concerns was traffic, and the traffic light was an important element of this. She indicated she drove through the area during school pickup

time and the traffic never stopped. She stated she was very surprised, the traffic was not nearly as bad as she was expecting. She stated the traffic backed up into the school, however, so the traffic light would be a big benefit.

Mayor Wimpee indicated there were citizens who wished to speak.

Citizen Craig Schwegler stated he lived in the neighborhood west of this proposed development. He stated he worked for Rausch Coleman Homes since 2011 in specifications and quality control. He explained Rausch Coleman audited all its homes. He indicated Rausch Coleman paid an engineer to perform six additional inspections to ensure construction was done to Rausch Coleman standards which were above and beyond typical building standards. He discussed the different inspections which included a framework inspection, energy inspections, etc. He stated Rausch Coleman worked hard to ensure its customers purchased a quality home which would last.

Citizen Joe Hillenburg stated he believed Rausch Coleman would build a meaningful development for the community. He stated he felt the development would benefit young families and many others who wished to move into Broken Arrow. He discussed all the new business coming into the City. He stated this development was in accordance with City Staff. He discussed the traffic situation and how well it actually moved during school drop off and pickup. He noted the traffic light which Rausch Coleman would install would only improve the traffic situation.

Mayor Wimpee noted 101 citizens signed up in opposition but did not wish to speak.

Citizen Ryan Kral spoke in opposition. He distributed an unofficial petition to City Council which stated while against the development, if it were approved there were a few considerations the citizens would like to see included in the PUD. He stated these considerations included a crash gate at the stub street for child safety reasons and to prevent through traffic. He noted his children played on the stub street cul-de-sac. He stated if he lived in the new subdivision, he would avoid the stop light, and go through his neighborhood to access Tucson. He stated another consideration was to replace any trees which were removed for construction in the buffer space, and the last consideration was to add fencing.

Council Member Parks asked if Mr. Kral was concerned about residents in his subdivision crossing into the new subdivision to access the traffic light.

Mr. Kral responded in the negative; he was worried about residents in the new subdivision crossing into his subdivision to avoid the traffic light.

Vice Mayor Gillespie stated she felt those who lived right next to the existing subdivision might do this, but those who were closer to the traffic light exit most likely would not.

Mr. Kral stated he believed many would choose to cross through his subdivision.

Council Member Ford stated she was a defensive driver and would much rather use the traffic light for safe access.

Citizen Dustin Fletcher spoke in opposition. He stated the Chairperson of the Planning Commission said this development did not fit the area. He discussed the preceding development applications which were denied in this area because the lot sizes were too small at 7,000 square feet and then 6,000 square feet. He discussed how this development should be denied as well; it had smaller lot sizes than the first two proposed developments. He stated this development did not fit the area. He thanked the City for widening the road and improving traffic flow. He stated this development's character and scale simply did not fit with the existing community. He stated this development did not fit the Comprehensive Plan requirements. He noted the development would fit the new zoning ordinance, but he felt this was changing the rules which was unfair.

Council Member Parks stated this development fit the Comprehensive Plan and he felt the first development was denied because it planned to construct 280 homes on the property, and the second development was denied because it planned to construct 199 homes on the property, while this development planned to build 145 homes or less.

Mr. Fletcher thanked Council Member Parks for coming out and speaking with his neighbors. He stated the homes to the east had 10,000 square foot lots, the homes to the west had 8,000 square foot lots. He stated the proposed development would have 5,000 square foot lots which did not fit with the neighbors. He stated the Comprehensive Plan indicated the new development had to fit in character and scale and this proposed development did not fit. He thanked City Council.

Citizen Brad Farnsworth spoke in opposition. He thanked City Council for the opportunity to

He recognized those who stood up for Broken Arrow children, schools, and the city over the past year. He stated this was the fourth time this has come before City Council. He stated he got involved because he was concerned about the safety of the children in the community and school overcrowding. He noted City Council's decision tonight would affect the City of Broken Arrow and the community. He asked City Council to look inside and make the decision which City Council felt was the right choice for Broken Arrow. He stated he understood City Council cared about the City, cared about the Community, and he was counting on City Council to make the right choice. He asked for City Council to vote for a safer and better Broken Arrow.

Vice Mayor Gillespie asked for someone to address the comment made about the Comprehensive Plan.

Mr. Schwab stated there was some language in the Preview Ordinance which was tabled tonight which would be addressed in the next 30 or 60 days which would clear up some language in the Comprehensive Plan. He stated with respect to tonight's issue, this was not on the table because it was still under the current zoning and current Comprehensive Plan. He noted through this process the citizens raised a handful of questions which Staff needed to address.

Citizen Rachel Fletcher spoke in opposition. She thanked City Council. She said the Item for consideration was an R-4 with a PUD, but it was not a true R-4, it was an R-4 with variances and the variances allowed a smaller lot size than R-4; the smallest allowable lot size in Level 2 of the Comprehensive Plan. She said an R-4 lot size was 6,500 square feet with a 55 foot lot frontage, but tonight the proposed lot size was 5,000 square feet with 50 feet of lot frontage. She stated in 2016, R-4 was created as a solution to accommodate shrinking lot sizes. She indicated current zoning said the City was to protect the scale and character of existing residential neighborhoods and community character, and then it said it was to protect and enhance existing areas with high quality development compatible with the character, scale, and function of the surrounding areas. She stated approving this would not be consistent with the homes in the area and would be going against the Comprehensive Plan. She stated she felt this would set a precedent for smaller lots sizes in Broken Arrow. She stated she had concerns about the promised greenspace being predominantly the retention ponds and the greenbelt area.

Citizen Bryan Myers spoke in opposition. He stated he agreed with those who spoke before that this development did not fit with the character and scale of the existing neighborhoods due to the size of the homes and the lot sizes which he believed would reflect poorly on his property value. He stated he understood the property owner and developer wanted to make the most of the property, but he was concerned his and his neighbors' property values would go down significantly with this development. He said he understood affordable housing was needed. He said he understood this was a tough call and he thanked City Council for making the hard choices.

Vice Mayor Gillespie said she understood with the new upcoming Zoning Ordinance, to build on smaller lot sizes, a certain amount of greenspace was needed. She asked if the greenspace the developer proposed to create was only accomplished with the retention ponds.

Ms. Yamaguchi responded in the negative; only a portion of the greenspace would be thanks to the retention area, and most single family residences required some retention areas. She discussed the densities in the current zoning ordinance and the proposed zoning ordinance, which was not yet approved. She noted the actual density (dwelling units per acre) of the proposed development was not very different from the neighboring subdivision's density. She stated the difference was the developer was trading smaller lot sizes for more greenspace. She stated greenspace was being preserved and more amenities were being offered to this neighborhood. She said yes, there would be smaller lot sizes, smaller side yards, smaller setbacks, etc., but this was a give and take.

Vice Mayor Gillespie asked if these ponds would be retention or detention ponds.

Ms. Yamaguchi noted this would be determined during engineering.

Mr. Schwab responded Broken Arrow typically utilized detention ponds.

Ms. Yamaguchi noted if open spaces were required for detention, trees would not be allowed in the detention area as trees could disrupt waterflow.

Mr. Schwab stated the subdivisions surrounding this property, South Ridge Park, South Wind, South Park, Saddleback, were all built in the early 1980s or so, which was before Broken Arrow had detention ordinances in place and none had detention. He said this property would have the first detention area in the surrounding area.

Vice Mayor Gillespie stated she suspected the existing subdivisions, constructed without any detention areas, probably created the existing water issues on the property.

Mr. Schwab stated he was unsure if this was the case, but there would definitely be some challenges for the owner and engineer.

Council Member Parks noted somewhere the water would need to be detained.

Mayor Wimpee noted in the 101 forms which were submitted in opposition, several were from teachers. She asked, if the first few proposed developments were denied because they did not fit, why was Planning Commission and City Staff in favor of this proposed development.

Ms. Yamaguchi responded a comparison of the three different projects was made for this purpose. She noted the first proposed development was a duplex-type development which proposed a maximum of 199 lots with a density of 5.3 units per acre. She stated this was denied due to the duplex nature of the development, traffic was also a concern. She indicated the developer at that time also committed to a traffic light within the PUD and landscaping buffers, but the buffers were about 22 feet. She reported this was denied almost a year ago today. She reported the second application came forward with straight RS-4 zoning and a maximum of 214 lots with a density of 5.5 units per acre which was a little higher than the previous application for a duplex development, and this was denied. She explained this new application proposed the lowest density and lowest number of lots with a maximum of 145 lots and a density of 3.91 homes per acres. She stated the density of this development was significantly less than what had been proposed previously. She stated also, with this development, the developer was proposing 50 foot landscape buffers and committing to 15 percent open greenspace; this was not included in previous applications. She stated the 7,000 square foot lot size proposed with the first application was for a duplex unit and each individual duplex would only have had a lot of 3,500 square feet which was significantly smaller than the current proposed lot size. She stated the lot sizes in the second proposed development were larger, but the density was less in the current proposed development with the PUD and more meaningful open space was being dedicated.

Council Member Parks stated looking at the memo he received from the City, with R-2 straight zoning without a PUD, the lot size would be 8,000 square feet, but there would be 165 homes. He noted there would be square footage in home yards, but less communal greenspace with trails.

Ms. Yamaguchi agreed; if there were straight zoning, no buffering would be required.

Mayor Wimpee asked if 165 homes would fit on this land with the existing drainage issues.

Ms. Yamaguchi responded the property could hold a maximum 165 homes with straight zoning.

Mayor Wimpee noted with 8,000 square foot lots, and the drainage area needed, she did not think 165 homes would fit on the property.

Ms. Yamaguchi concurred.

Council Member Parks noted it also would not include a 50 foot greenspace easement on both sides of the property abutting the existing residential.

Ms. Yamaguchi concurred. She noted some land would be lost with the drainage, but land would be gained back by the removal of the 50 foot buffers. She noted there was give and take in all of this. She stated if straight zoning were used, there would be no mechanism to require the developer to install a traffic light or provide additional right-of-way. She noted the developer would be required to stub into the Creek Turnpike right-of-way, but the City could not require any dedication of property for a future frontage road. She stated the PUD did reduce the lot size, but it restricted the number of lots, provided buffers, provided future right-of-way for future roadway expansions, and provided a traffic light.

Discussion ensued regarding how many lots would actually fit on the property with detention area and roadways if it were developed with straight R-2 zoning.

Vice Mayor Gillespie noted she contacted numerous developers who built R-2 and R-1 homes who indicated they would not build R-2 or R-1 on this piece of property. She stated she wanted to make sure she was doing due diligence, and the R-2 developers indicated they would have difficulty selling R-2 homes directly across from a middle school and elementary school.

Ms. Yamaguchi stated there was no such thing as an R-2 type home; there were single family

homes and multifamily homes, and R-2 referred to lot sizes and frontages. She stated City Staff were not allowed to take into consideration home sizes or prices.

Council Member Parks stated he felt typically bigger homes would be built on bigger lot sizes.

Ms. Yamaguchi noted there were developments in Broken Arrow with smaller lot sizes and large homes which were popular because certain homebuyers did not want yard maintenance responsibilities. She stated it depended on the market, the buyers, and the developers.

Council Member Parks stated the new zoning ordinance would also allow subdivisions to develop different lot sizes in the same development.

Ms. Yamaguchi noted this was technically allowed now; just because a property was zoned RS-4 did not mean the lot sizes were required to be the minimum lot size. She noted there were developments in Broken Arrow with different lot sizes and different frontage sizes.

Mayor Wimpee noted there was a citizen who had some suggestions for the developer. She asked if these suggestions were something the applicant was willing to consider.

The applicant Kyle Richeson stated at this stage it was typically a land use zoning decision. He stated he spent months preparing for this to prevent being required to return two or three times. He stated he met with Mr. Ryan Kral in person and during this meeting a crash gate was not mentioned, so it was not something he had even looked at. He stated he was towing the line right now in terms of being able to appeal to a buyer and make the homes attainable. He explained the more that was added to the PUD the more difficult it would be to make the homes attainable. He stated as such he did not have an answer because he did not know what a crash gate cost and because this was just a zoning stage it was difficult to know where fencing would be needed, and what trees would be removed and where trees would need to be replaced. He stated he lived in Broken Arrow, and he would be more than happy to walk the property with the neighbors and try to figure out a way for everyone to win.

Mayor Wimpee stated City Council was not making a decision based on whether or not Mr. Richeson could sell homes; the decision would be based on what was best for the City overall.

Mr. Richeson stated he understood. He noted also there were many things the opposition was bringing up which had no relevance to zoning and land use. He stated this decision should not be based on the emotional things which had to be discussed, but it was part of the process.

Vice Mayor Gillespie stated this was a good point because normally when zoning was discussed most of what was discussed this evening was not discussed at all.

Mr. Richeson explained the developer wanted to be able to understand, before investing significant time and money, did the project fit within the Comprehensive Plan and if the answer was yes, he should be able to move forward without a whole lot of opposition. He stated at the end of the day investors and builders had to be able to trust the Comprehensive Plan and he was told by City Staff and Planning Commission that this did fit the Comprehensive Plan.

Council Member Parks noted with regular zoning there would be nothing to save the trees. He stated in this PUD at least 50 feet of the existing greenspace would be saved on either side. He noted many times developers simply removed all trees and then made the homeowners plant trees. He stated this was one reason he appreciated a PUD.

Council Member Green stated he lived in the area and was very invested. He stated it was important to weigh what was best for the City and best for the citizens, but he also felt it was not the government's job to tell a property owner what could or could not be done with property. He stated personally he spent a lot of time in prayer over this and had a lot of sleepless nights as a result.

The applicant Megan Pasco indicated she could answer some of the questions from citizens, but Staff did an amazing job in answering all questions. She stated she was happy to answer any additional questions. She thanked Mr. Schwab and Mr. Henkel for doing the traffic analysis after the Planning Commission meeting.

Mayor Wimpee stated it sounded as if since the side street (right turn lane) was built by the City, the traffic issues in front of the school were significantly lessened.

Council Member Green noted the new lane cut down on the traffic buildup going into the school but not coming out of the school.

Mr. Schwab stated Spring Creek Elementary did an incredible job; he thanked Principal Troutman who split the pickup into two groups, kindergarten through second grade was on the south end of the school, and third through fifth grade were on the north end of the school. He stated the younger pickup line could stack 35 cars before causing difficulty with the east/west bound traffic along Tucson, and now that the City built the dedicated right turn lane, the older children could stack up to 45 vehicles before causing traffic backup. He said this was a total of 80 vehicles and made a world of difference. He stated Council Member Green was correct, getting out of the school was the problem. He explained northbound traffic getting out and making a left turn was difficult and a signal would change this. He stated a traffic signal at this intersection would also make this intersection much safer. He noted there was some confusion over something he said during the Planning Commission Meeting which he would like to clarify. He stated he had been working with Derek Blackburn at Broken Arrow Public Schools on the crossing guards for 2 to 3 years. He stated originally, years ago, children crossed west near 1st street, and then the crossing moved even further to the west. He stated it was only about 22 to 24 feet wide in this area, and moving into the drive it was almost 30 feet wide. He explained the crossing guard had to step out into public right-of-way and stop oncoming traffic as there was no traffic signal. He explained where the children crossed there were only two lanes of traffic and the crossing guard looked to the left and right, made eye contact with drivers to stop traffic, and then moved the children safely across the street. He stated it took approximately 8 seconds for children to cross which was pretty quick. He stated years ago the crossing area was moved to 3rd Street which was crossing at six lanes of traffic and was much more difficult and much more dangerous, so it was moved back to where it was today. He stated if a signal was installed the traffic would come to an all stop, meaning all four directions of traffic would stop whenever the pedestrian button was pushed, the crossing guard would not be trying to stop six lanes of traffic, and the children would be able to cross in front of the school safely as opposed to further down the road from the school intersection. He explained today, crossing at 3rd Street was dangerous, but if a signal was installed it would be safe. He asked Ms. Pasco if he understood the development would have 131 lots.

Ms. Pasco explained the conceptual site plan as it existed today showed 131 lots; but 145 lots was the guaranteed maximum number of allowed lots. She stated Chairperson Klempa was absent at the Planning Commission meeting during this item; the four present Planning Commission Members recommended this Item for approval to City Council. She stated any comments made by Chairperson Klempa opposing development would have been about a previous application, not this application.

Council Member Ford stated she used to serve on the Union School Board, and as a School Board member you considered what was best for the schools. She said in her role as City Counselor she had to think about what was best for the City. She said she liked the idea of a PUD as it gave the City and the citizens some control over what happened in a subdivision. She noted if this were not approved, and a subdivision came in without a PUD, there were many things the neighboring residents wanted which a builder would not be required to provide. She stated the City recently conducted a citizen survey, the results of which were discussed immediately before this meeting, and the citizen survey indicated this development was exactly what the City was missing. She explained this was from the citizens; the citizens were saying this type of development was needed. She stated the City also spent a lot of money doing a housing survey which showed this type of development was needed. She noted as she looked through the stack of papers and those in the audience who were against this, a large portion of them were her friends, so this was a hard decision, but the decision had to be made for the City and what was best for the City and it seemed the current developer was bending over backwards to try to work it out for everyone in the area.

Mayor Wimpee stated it was important not to look at what the Ordinance might be, but the current Comprehensive Plan, which said to consider whether a development fit the character and scale of the area, and this was where she struggled with this proposed development. She said clearly this development did not fit the character of the surrounding area in terms of look and feel.

Vice Mayor Gillespie stated when she thought about character of a development she thought about the outside of a home. She stated nobody would know what the inside of her home looked like, but she had good landscaping, and her yard was neat. She stated she wanted to be sure the outside of the development was nice, such as the entrance to the neighborhood. She stated the masonry and landscaping on the outside of the subdivision was very important. She noted her daughter was only able to purchase a home because her parents were able to buy a fixer upper, help her to fix it up, and helped her buy the home. She stated this was not always the case for most people and her daughter would still be living in an apartment if this had not happened. She stated she wanted to make sure there were housing choices which were affordable. She noted she felt these homes were still too expensive to be considered really affordable. She stated she understood it was scary when new developments went in next door because homeowners, herself included, were very emotional when it came to their properties and homes as it was a huge investment. She stated this was also an emotional

decision for her as she did not want anyone to be angry with her, but unfortunately no matter what decision was made someone was going to be angry. She stated this was a difficult decision.

Mayor Wimpee agreed Rausch Coleman was bending over backwards to try to accommodate all the major issues. She noted it was important to keep this in mind.

Council Member Ford stated she did tour a Rausch Coleman model home; she thought it was a beautiful home and was surprised to hear it referred to as a “starter” home. She noted her first home was half the size of the Rausch Coleman home, with one bathroom, and it certainly was not a new home. She noted she had a larger lot with her first home, but she also had an 18 percent interest rate on her first home. She stated she would not call these homes affordable starter homes necessarily, but she felt the quality of the home was beautiful and well put together, and she would love to live in one.

Council Member Parks stated the northern portion of this property was very close to the Turnpike and normally this would call for a buffer zone such as with duplexes or apartments. He stated across the Turnpike from this property was industrial land and a buffer zone. He stated he was surprised there was no required buffer zone along this property to the north. He stated he understood the property would provide a buffer with trees which would help, but in the winter the trees would not be very good at blocking the noise from the highway.

Council Member Ford made a motion to approve.

Vice Mayor Gillespie stated she was voting yes; she would make sure the PUD was followed and would take into consideration the requests made by the citizens and would see if anything could be done to accommodate these requests.

Council Member Green stated his vote no was not a referendum on the developer or the property owner. He stated his vote was as a representative of Ward 4 and the citizens in Ward 4 he was elected to represent.

MOTION: A motion was made by Lisa Ford, seconded by Johnnie Parks.
Move to approve PUD-001360-2024 and BAZ-001206-2023 (Rezoning), Spring Creek Crossing, 38 acres, A-1 (Agricultural) to RS-4 (Single-Family Residential) and PUD (Planned Unit Development)-001360-2024, located north of Tucson Street (121st Street), one-quarter mile west of 9th Street (177th East Avenue/Lynn Lane Road)

The motion carried by the following vote:

Aye: 3 -
Nay: 2 -

Lisa Ford, Johnnie Parks, Christi Gillespie
Justin Green, Debra Wimpee

10. Preview Ordinances

There were no Preview Ordinances.

11. Ordinances

A. 24-468

Consideration, discussion, and possible adoption of Ordinance No. 3825-CORRECTED, an ordinance amending the Broken Arrow Code of Ordinances, Chapter 23 - Traffic; Article IV. - Stopping, standing and parking; Division 1. - Generally; repealing all ordinances to the contrary, and declaring an emergency
Mr. Curtis Green stated the Ordinances before City Council this evening were approved in March; however, once approved the required signatures were not obtained by the publication deadline, so these were being brought forward for approval once again to have the Ordinances published within the required 15 day period with the required signatures.

MOTION: A motion was made by Lisa Ford, seconded by Christi Gillespie.
Move to adopt Ordinance No. 3825-CORRECTED

The motion carried by the following vote:

Aye: 5 -

Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

B. 24-469

Consideration, discussion, and possible approval of an emergency clause for Ordinance 3825-CORRECTED

MOTION: A motion was made by Christi Gillespie, seconded by Justin Green.

Move for the emergency clause

The motion carried by the following vote:

Aye: 5 -

Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

C. 24-470

Consideration, discussion, and possible adoption of Ordinance No. 3826-CORRECTED, An Ordinance of the City of Broken Arrow amending Chapter 6, sections 6-22, 6-46, 6-96, 6-97, 6-130, 6-164, 6-301 of the Code of Ordinances. These amendments will remove the requirement of contractors to deposit and maintain an escrow account balance to utilize the permitting services of the City of Broken Arrow and repeal all

ordinances to the contrary and declaring an emergency

MOTION: A motion was made by Lisa Ford, seconded by Johnnie Parks.
Move to adopt Ordinance No. 3826-CORRECTED

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

D. 24-471 **Consideration, discussion, and possible approval of an emergency clause for Ordinance 3826-CORRECTED**

MOTION: A motion was made by Christi Gillespie, seconded by Justin Green.
Move for the emergency clause

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

E. 24-473 **Consideration, discussion, and possible adoption of Ordinance No. 3829-CORRECTED, An Ordinance of the City of Broken Arrow amending Chapter 10, Section 27. This amendment will remove the requirement of contractors to deposit and maintain an escrow account balance to utilize the permitting services of the City of Broken Arrow and repeal all ordinances to the contrary and declaring an emergency**

MOTION: A motion was made by Johnnie Parks, seconded by Lisa Ford.
Move to adopt Ordinance No. 3829-CORRECTED

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

F. 24-474 **Consideration, discussion and possible approval of an emergency clause for Ordinance No. 3829-CORRECTED**
There were no Ordinances.

MOTION: A motion was made by Christi Gillespie, seconded by Justin Green.
Move for the emergency clause

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

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

Council Member Ford invited all to the Trash Bash on Saturday, April 20, 2024. She stated attendees could bring shredding, tires, batteries, etc., to the Events Park from 8:00 a.m. until 12:00 p.m. She stated the information about the event could be found on the City website.

Mayor Wimpee stated the City did an excellent job with Bounce BA and Packard had a 100th Anniversary Car Show which was a fun event.

Council Member Ford displayed photos of the Bounce BA event which was very successful.

Vice Mayor Gillespie noted the community said Bounce BA was one of the best events in the City. She said she and her daughter's new business had a booth at the event, and it was packed the entire time. She noted Council Member Green came by and played in the sensory bin.

Mr. Henkel indicated there were approximately 12,500 visitors at the Bounce BA event.

Council Member Ford stated there were 12 female mayors across the nation who were invited to go to Switzerland to see how Switzerland did business and Mayor Wimpee was one of the twelve mayors invited. She congratulated and commended Mayor Wimpee.

Vice Mayor Gillespie announced the Senior Fair was Friday April 26th, 2024 at the Central Park Community Center from 9:00 a.m. until 1:30 p.m.

Council Member Ford noted the Trash Bash, and the Senior Fair, were free events.

Mayor Wimpee announced on April 27th, the Elks Lodge would have its BBQ event.

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

There were no remarks or updates by City Manager.

At approximately 9:05 p.m. Mayor Wimpee noted there was an Executive Session and called for a recess for BAMA and BAEDA.

MOTION: A motion was made by Christi Gillespie, seconded by Justin Green.
Move for a recess for BAMA and BAEDA

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

At approximately 10:05 p.m. City Council entered into Executive Session.

MOTION: A motion was made by Debra Wimpee, seconded by Justin Green.

Move to enter into Executive Session

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

14. Executive Session

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

1. Pending investigation and claim, including potential resolution, of a matter involving the tort claim Liberty Mutual, Tort Claim No. TRT 1487.2024, and taking appropriate action in open session, if any, under 25 O.S. §307(B)(4).

In the opinion of the City Attorney, the Council is advised that the Executive Session is necessary to process the litigation and disclosure will seriously impair the ability of the public body to process the claim or conduct a pending investigation, litigation or proceeding in the public interest. After the conclusion of the confidential portion of executive session, the Council will reconvene in open meeting, and the final decision, if any, will be put to a vote.

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

Move to find the Executive Session necessary

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

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

Move to deny the tort claim filed by Liberty Mutual in its entirety

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee

City Council returned to open session at approximately 10:06 p.m.

15. Adjournment

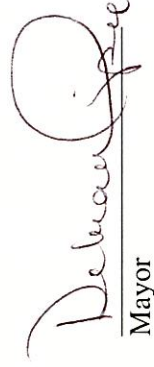
The meeting was adjourned at approximately 10:07 p.m.

MOTION: A motion was made by Lisa Ford, seconded by Johnnie Parks.

Move to adjourn

The motion carried by the following vote:

Aye: 5 - Justin Green, Lisa Ford, Johnnie Parks, Christi Gillespie, Debra Wimpee


Mayor


City Clerk

