



# 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 Mike Lester*  
*Council Member Johnnie Parks*  
*Council Member Debra Wimpee*

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**Tuesday, September 4<sup>th</sup>, 2018**

**Time 6:30 p.m.**

**Council Chambers**

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**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 Chris Buskirk.

**3. Roll Call**

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

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

Mayor Craig Thurmond 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. There were none.

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

**Move to approve the Consent Agenda**

The motion carried by the following vote:

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

- A. 18 1009 Approval of City Council Meeting Minutes of August 21, 2018**
- B. 18 995 Approval of and authorization to execute Budget Amendment Number 1 for Fiscal Year 2019**
- C. 18 1025 Approval of the appointment of Police Chief Brandon Berryhill to the Youth Services of Tulsa County Inc. Board of Directors**
- D. 18 1006 Approval of and authorization to execute a Proclamation declaring September 2018, as National Senior Center Month in the City of Broken Arrow, Oklahoma**
- E. 18 1053 Approval of and authorization to execute a Promotional License on City Property allowing ScotFest, Inc. to host the 2018 ScotFest event**
- F. 18 1043 Approval of and Authorization to execute a License Agreement between the City of Broken Arrow and Auburndale Halifax, LLC, to allow the construction of a vehicular entrance and to landscape, maintain and repair the City right of way known as East Reno Street located north of Lot 1, Block 1, Hillcrest Lynn Lane, Tulsa County, Oklahoma (S1 T18N R14E)**
- G. 18 1001 Approval of and authorization to execute a Medical Director Services Agreement between David Gearhart, D.O. and the City of Broken Arrow for services as the Physician Medical Director for the Fire Department**
- H. 18 999 Approval of and authorization to execute an agreement with the Broken Arrow Military History Center for removal and relocation of the Vietnam monument from Central Park**
- I. 18 1060 Approval of and authorization to execute an Amended Attorney Engagement Agreement between the City of Broken Arrow and Tammy Ewing for providing counsel and legal advice on an as needed and as assigned basis, which may include prosecution of Municipal Court cases, representation in State Court litigation and review of contracts and drafting ordinances and other documents**
- J. 18 1000 Approval of and authorization to execute Contract for Provision of Public Services for 2018 Community Development Block Grant Program**
- K. 18 1022 Approval of and authorization to execute a renewal application for Firefighter Justin Williams to participate on the Oklahoma Taskforce 1 Urban Search and Rescue Team**
- L. 18 1049 Approval of and authorization to purchase structural firefighting coats, pants, gloves and boots from Northern Safety, helmets from Casco Industries, Inc., and flashover hoods from NAFECO, from existing contract Bid 17.149**

- M. 18 1040 **Approval of and authorization to purchase annual software maintenance services from Superion, L.L.C.**
- N. 18 1051 **Approval of and authorization to execute a Consent Order on Case Number 18 130 from the Oklahoma Department of Environmental Quality (ODEQ), Water Quality Division**
- O. 18 1046 **Approval of and authorization to execute Change Order CO3 for Construction Contract 173002; Public Safety Training Facility Police Down Range Building**
- P. 18 1045 **Approval and authorization of Final Acceptance for the public improvements at Springhill at Forest Ridge, located at 8907 East Kenosha Street**
- Q. 18 1021 **Consideration, discussion, and possible approval of PUD 175D (Planned Unit Development) and BAZ 2009 (Rezoning), Pat’s Express Car Wash Broken Arrow, 1.01 acres, PUD 175D/CG to PUD 175D/CH, located north of Kenosha Street, west of the Creek Turnpike**
- R. 18 1002 **Approval of SP 45A (Specific Use Permit) Amendment to Trinity Lutheran Church Signage, 4.43 acres, A 1/SP 45, west of Elm Place, one half mile south of Florence Street**
- S. 18 1013 **Acceptance of a Deed of Dedication from Martha A. Helm, Deborah A. (Helm) Caskey and Linda G. (Helm) Dysert, as trustees, whether jointly or severally, of the Martha A. Helm Trust, on property located one half mile north of Houston Street, west of Evans Road, Wagoner County, State of Oklahoma (Section 08, T18N, R15E)**
- T. 18 1014 **Acceptance of a Utility Easement from the Martha A. Helm Trust, on property located one half mile north of Houston Street, west of Evans Road, Wagoner County, State of Oklahoma (Section 08, T18N, R15E)**
- U. 18 52 **Approval of the Broken Arrow City Council Claims List for September 04, 2018**  
 City Manager Mike Spurgeon stated, with the approval of Item H (the removal and relocation of the Vietnam Monument from Central Park) city staff would work with the Broken Arrow Military History Center to ensure the Monument was moved to an agreeable location. He reported \$6500 dollars had been allocated for this purpose.

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

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

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

- A. 18 1063 **Presentation by City Manager Michael Spurgeon on the results of the 2018 GO Bond Election including action plan for implementation of projects**  
 City Manager Spurgeon reported all six propositions of the 2018 GO Bond were passed at the election last week. He reported over 16,000 voters voted in favor of Propositions 1, 2 and 3, and over 15,000 voters voted in favor of Propositions 4, 5 and 6. He stated a number of voters did not turn the ballot over which was why Propositions 4, 5 and 6 had fewer votes.  
  
 He stated Proposition No. 1 included the Street Program for \$144 million dollars and passed at 74%; Proposition No. 2 included Public Safety and passed at 71%; Proposition No. 3 was Quality of Life and Parks and Recreation and passed at 68%; Proposition No. 4 was Public Facilities and Other Miscellaneous Services and passed at 62%; Proposition No. 5 was Stormwater and passed at 74.8%; Proposition No. 6, also Stormwater, had required at least a 60% approval rate due to the involvement of City, Public and Private Property, and it passed at 73%.  
  
 City Manager Spurgeon thanked the voters who attended and voted on Election Day. He thanked City Council, Staff and Community Partners for the support and effort of package development and public education. He stated the next step was determining which projects would be initiated in which order and next month a proposed implementation plan would be presented to Council for consideration. He stated a “Promises Made, Promises Kept” statement would be published each year reviewing which projects had been completed and which were coming up.
- B. 18 1012 **Consideration, discussion, and possible approval of displaying “The War at Home Memorial” at Veterans Park, and, to authorize staff to work with Mission 22 representatives for the development of a site plan, and, preparation of an agreement for acceptance and display of the memorial**  
 Mayor Thurmond stated the entire City Council was excited about this proposed project.  
  
 Parks and Recreation Director Scott Esmond reported Mission 22 contacted the City of Broken Arrow and requested to display “The War at Home Memorial” at Veterans Park. He stated a Meeting had been held with representatives of Mission 22, Tom Mancino with the Military History Center, Council Member Wimpee, and various staff members who all supported the proposition to display the Memorial at Veterans Park. Mr. Esmond gave a brief history of Mission 22, a nonprofit organization which battled the ever-rising veteran suicide rate through veteran treatment programs, memorials, and national awareness. He stated the Memorial was composed of twenty 4 x 10 feet steel plates, each crafted in the likeness of a real American

Veteran who lost the battle with post-traumatic stress disorder, and included an inscription which detailed the life and service of each veteran. He displayed a picture which illustrated what the memorial potentially would look like. He stated Theresa Eash and Michael Coon, Mission 22 representatives, would make a brief presentation.

Mr. Michael Coon, from Mission 22, stated this Memorial was the first of its kind. He stated he was of Muscogee Creek Nation heritage and, as such, he felt it was important for the Memorial to be placed in Broken Arrow. He stated he hoped it would be a solemn place for reflection where veterans could find solace. He reported his son, who was born and raised in Oklahoma, was featured in this Memorial, but the others were from all over the United States which made this a National Monument. He reported metal chairs would be donated to provide seating. He stated the Muscogee Creek Nation was prepared to assist the City of Broken Arrow in financing trail installation around the Memorial. He reported he was also enlisting volunteer vendors to provide Memorial maintenance. He stated this was a National Memorial which was currently on display in Norfolk, VA, and would remain there for five months prior to being relocated to Broken Arrow.

Mayor Thurmond stated he appreciated Mission 22 choosing Broken Arrow for display of this Memorial. He stated he personally felt blessed the Memorial would be in Broken Arrow, as his son suffered from PTSD, and he understood the difficulty many veterans faced in this regard. He stated he hoped individuals from around the Nation would come to Broken Arrow and feel comforted by the Memorial.

Mr. Esmond stated if the Council so approved, a landscape architect should be hired to create a site plan and conceptual plan, to be approved by Council and Mission 22, which would clearly delineate the responsibilities of each party.

Mr. Coon presented City Council with a copy of the Mission 22 book.

MOTION: A motion was made by Debra Wimpee, seconded by Mike Lester.

**Move to approve the display of the “War at Home Memorial” at Veterans Park and authorize Staff to work with Mission 22 representatives for the development of a site plan and preparation of an agreement for acceptance of the display**

The motion carried by the following vote:

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

**C. 18 1024 A public hearing regarding the Police Department’s application for the Edward Byrne Memorial Justice Assistance Grant (JAG), and authorization to submit the grant application**

Police Chief Brandon Berryhill reported the Police Department was eligible to apply for the Edward Byrne Memorial Justice Assistance Grant in the amount of \$13,479 dollars to be used for conference training equipment and overtime. He reported the proposed conference training funds would be used for officer training, equipment funds for target upgrades for the Police Department’s mobile data systems and overtime for targeted patrol. He explained as part of the application process the application was required to be made public and the public needed to have the opportunity to comment on the proposal. He stated Staff recommended City Council conduct the Public Hearing and authorize submission for the grant application.

Mayor Thurmond called the Public Hearing to order and asked if any Citizen wanted to speak; he asked three times. No Citizen wanted to speak. Mayor Thurmond closed the Public Hearing.

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

**Move to conduct the Public Hearing and authorize submission of the grant application**

The motion carried by the following vote:

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

**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 Thurmond stated no citizen had signed up to address the Council.

Mayor Thurmond recused himself from Item 9A. He left the room at approximately 6:48 p.m.

**9. General Council Business**

**A. 18 1048 Consideration, discussion, and possible approval of PUD 280 (Planned Unit Development) and BAZ 2010 (Rezoning), The Villages at Seven Oaks South, 11.34 acres, A 1 to RS 3 (BAZ 1622) to RS 3 to RS 4/PUD 280, located one quarter mile east of 9th Street, south of New Orleans Street**

Plan Development Manager Larry Curtis reported the applicant requested zoning on this unplatted property be changed from A1 RS3 to RS4/PUD 280. He stated a preliminary plat, The Villages at Seven Oaks South, was submitted in conjunction with PUD 280. He stated the preliminary plat was tabled to the September 13, 2018 Planning Commission Meeting due to an issue with access. He

explained PUD 280 proposed to develop a privately gated neighborhood with up to 47 lots and a conceptual layout. He stated the preliminary plat showed 57 lots and he explained the ten lots facing South 12<sup>th</sup> Place and East New Orleans Place, to the South along 13<sup>th</sup> Place, were not included within the PUD and the rezoning request would remain RS3. He stated at the Planning Commission Meeting PUD 280 proposed private streets owned and maintained by the new development's home owners association with the primary entry to the subdivision coming off East Quantico Street. He reported emergency crash gates would provide emergency access to and from the subdivision on Roanoke Place and East Orlando Street. He stated during the Planning Commission Meeting on August 9<sup>th</sup>, 2018, concerns were raised by the residents of Seven Oaks South and the Planning Commission Members, regarding traffic on existing streets and access to the gate entry being directly from an existing home subdivision. He stated the developer had a meeting with several residents of Seven Oaks South on Friday prior to the Planning Commission Meeting and a letter was sent on July 25<sup>th</sup>, 2018 by the developer to the residents in an attempt to explain the new development. He stated several members of the Planning Commission indicated it would be preferable to see the primary entrance of the development come from 12<sup>th</sup> Place to the north. He reported the access and circulation language had been modified to allow an alternative entrance toward the north end of the development. He reported placement of the entrance on 12<sup>th</sup> Place would require an amendment to the PUD which increased the boundaries to allow for direct access off 12<sup>th</sup> Place. He reported seven Citizens spoke against PUD 280 and BAZ 2010 with concerns including lot size, smaller and lower priced homes, vehicular access to the gated community, primary access to the gated community, increased traffic flow, access to the ponds in reserve area C, increased strain on Community amenities such as the pool and club house, the value of existing homes, police, fire and school bus access, increased burden on public schools. He reported in the Meeting on August 9<sup>th</sup>, 2018 the Planning Commission recommended approval by a vote of 3 to 1 of PUD 280 and BAZ 2010 with the condition that entry be located on 12<sup>th</sup> Place. He stated Staff recommended approval of PUD 280 and BAZ 2010 subject to the property being platted. He stated he and the applicant would be happy to answer any questions.

Council Member Mike Lester asked if this was certain to be a gated community. Mr. Curtis responded in the affirmative; the PUD specifically indicated this would be a gated community. Council Member Lester asked if the entrance gate would have sufficient turnaround space. Mr. Curtis responded in the affirmative; there would be sufficient turnaround space, as well as stack up space to prevent public road blockage. Council Member Parks asked where the crash gates would be located. Mr. Curtis displayed the map and indicated where the crash gates would be located. Council Member Parks asked about the road length and speed concern issue which was raised at the Planning Commission Meeting. Mr. Curtis replied the new design showed subdivision regulation requirements would be met in this regard. Vice Mayor Eudey asked if the applicant would like to speak.

Alan Betchan with AAB Engineering stated AAB Engineering was the engineer and surveyor for this project, was in agreement with Staff recommendations, and was happy to relocate the gate entry and to create a curve in the internal road to prevent speeding. He reported his developers had discovered there was a demand for smaller house and lot sizes which would require less maintenance, paired with higher amenity levels, and this project was an attempt to meet the market need for the smaller, gated-village, private-community feel. He stated AAB Engineering had made great efforts to address the concerns of the neighborhood, as well as traffic safety. Council Member Debra Wimpee asked what the price point was for the homes in this location. Mr. Betchan replied the houses would range from 1800 to 2200 square feet and would cost \$130,000 dollars and up, which was comparable to similar homes in the area. He stated the intent was not to devalue or to build a lesser product. Council Member Lester asked if the bend in the road would be sufficient to slow traffic through the development. Mr. Betchan responded in the affirmative; the bend included a center island which would slow traffic.

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

**Move to approve PUD 280 and BAZ 2010 as recommended by the Planning Commission and Staff with the added condition that the primary access to the development be derived from 12<sup>th</sup> Place**

The motion carried by the following vote:

**Aye: 4 -** Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey  
**Recused: 1 -** Craig Thurmond

Mayor Thurmond returned to the room at approximately 7:03 p.m.

**B. 18 960 Consideration, discussion, and possible approval of PUD 281 (Planned Unit Development), Milestone, 2.07 acres, DM/SP 137G/Area 6 of the Downtown Residential Overlay District to PUD 281/DM/Area 6 of the Downtown Residential Overlay District along with the abrogation of SP 137, located one third mile south of Kenosha Street, one half mile east of Elm Place**

Mr. Larry Curtis reported a new mixed use residential development was proposed on this property owned by the Broken Arrow Economic Development Authority. He stated the development would be a four story building with 31,000 square feet of commercial space on the ground floor with three levels of apartments above. He stated the 89,000 square feet of residential space would house approximately 90 units. He stated the property was presently zoned DM SP 137 and was located in

Area 6 of the Downtown Residential Overlay District. He stated SP 137, which was for a church, was approved by City Council on November 15<sup>th</sup>, 1999; however, the church had since been removed and the site was currently vacant. He stated the property had been platted as lot 1 through 22, block 18, original town of Broken Arrow. He stated the existing alley on the property was in the process of being vacated.

He reported in January of 2018 City Council adopted design standards for the Downtown Residential Overlay District and the adoption continued the implementation of the Downtown Master Plan by promoting comfortable, high quality, mixed use, residential design in the area bound by Elm Place, Houston Street, 9<sup>th</sup> Street and Kenosha Street. He stated the proposed Milestone project was located in Area 6 of the Downtown Residential Overlay District. He stated Milestone would be developed in accordance with the City of Broken Arrow zoning ordinance and the Mixed Use Commercial B design of the DROD, except as provided within the document. He stated it was important to note that the proposed changes were only for the building design; the proposed use was already permitted. He stated in the Planning Commission Meeting on August 9<sup>th</sup>, 2018, the Planning Commission concurred with Staff and recommended approval by a vote of 5 to 0 of PUD 281. He stated it was Staff's recommendation to have the PUD approved subject to Planning Commission and Staff recommendations.

Mayor Thurmond asked if the use was already approved, what is the PUD changing or modifying. Mr. Curtis responded it modified some of the external requirements of the DROD, including distance between windows going from 8 feet to 10 feet, material usage to include architectural metal, and the right-of-way setback was proposed to be changed from 30 feet to 3 feet to allow parking.

Council Member Lester asked Mr. Curtis to discuss parking further. Mr. Curtis replied he would be happy to discuss parking. He explained in the Planning Commission Meeting approximately twenty-five individuals expressed concerns about the project, five individuals expressed concerns about not enough parking on site, and there was much discussion during the Planning Commission. He stated Staff had researched the zoning ordinance currently in place and the Overlay District did not regulate parking requirements, the underlying zoning district did, and in this case it was DM (Downtown Mixed-Use). He stated the developer proposed to have approximately 147 parking spaces on site. He stated the developer was also in communication with a neighboring property to provide paid parking. Council Member Lester stated he felt this was great development; however, he did not want to burden the existing neighbors with parking, be it residential or commercial. He stated in his experience 1.75 parking spaces per unit were recommended, which would equal 158 parking spaces just for the apartments, let alone the retail businesses. He stated he worried residents would park in neighboring lots, such as the church, to access this property. Mr. Curtis stated this was a valid point and he would agree that parking would need to be addressed as the Downtown Rose District continued to be developed; however, uses for this property were already permissible by right. Council Member Lester asked if City Council had the right to require a certain number of parking places be provided. Mr. Curtis responded in the negative; if City Council denied the PUD, the developer could proceed as originally designed without any parking at all. Council Member Lester stated he hoped in the interest of leasing out the apartments, the developer would be amenable to providing appropriate parking. Mr. Curtis stated the developer was present to answer questions.

Director of Development with Cowen Construction, Steve Easley, a Partner with Milestone, stated he was in communication with Mr. Cody Callaway who owned adjacent property and had indicated he was interested in providing paid parking. He reported Milestone was in negotiations with Mr. Callaway in this regard. He explained this would add approximately 158 parking places, with 75 places being contract parking for tenants, and the rest intended to be public access parking on a fee basis. He stated this would bring the total to over 300 parking places. Council Member Lester asked how many parking places were currently proposed on site. Mr. Easley responded there would be 91 parking places on site, 47 surrounding the site, with an additional 19 adjacent to Mr. Callaway's lot. Council Member Lester asked if the 91 places on site were allocated for the residents of the apartment building. Mr. Easley responded in the negative; it was open parking.

Mr. Easley reported Milestone was still in the early phases of determining who would occupy the commercial space. He stated there was a tremendous demand from almost every restaurant in Downtown Tulsa, some from Norman, and some from Broken Arrow. He stated Milestone had secured \$22 million dollars in financing and the design was almost complete. Council Member Lester stated he felt this was a great project, but he did not want Mr. Easley to discover tenants would be unwilling to lease due to lack of parking. Mr. Easley stated this was intended to be an urban development similar to those in the Rose District and, as such, tenants would be willing to relinquish certain amenities, such as assigned parking and swimming pools, in order to live in this type of environment.

Council Member Parks stated he was currently pushing for additional parking in the Downtown area and he was concerned that the city would spend millions to install parking while apartment complexes could build without being required to provide any parking. He stated he did not feel parking in the church lot was a problem as he felt the church would be able to protect its own property; however, it was important that the church not be violated by outside parkers. Mr. Easley stated he was in the process of communicating with the church to discover an outcome acceptable

to all. Council Member Parks stated he felt it was a problem that Milestone would not have enough parking for the tenants, which would in turn deter potential visitors to the northern end of the Rose District due to lack of parking. He stated Staff would need to look deeply into this matter as it was imperative that parking be seriously considered in this situation. Mr. Easley stated he was aware of the parking shortage, which was why he was looking to the east and communicating with Mr. Callaway. He stated he would continue to search for more parking.

Vice Mayor Eudey asked, assuming the parking in Mr. Callaway's lots was developed, if it was a possibility to make tenant parking obligatory in this lot as opposed to parking in spots better used for the retail stores. He stated this would serve two purposes: one it would guarantee parking for the tenants, and two it would free up parking for retail visitors. Mr. Easley responded in the affirmative; it was possible the tenants would desire reserve parking, in which case the parking lot could be gated and access restricted to tenants only. He explained the more demand for parking there was, the higher the possibility that parking would become a part of the rental rate.

Citizen Larry Varvel stated his address was 112 East College Street and he was the Senior Pastor at the First United Methodist Church in Broken Arrow (the first church founded in the City of Broken Arrow). He stated when City Manager Spurgeon first informed him about this project, which was intended to be constructed next door to the church, and he heard about the lack of parking, he naturally was concerned. He stated he believed parking would organically lateral over into the church parking lot, and while yes, cars could be towed and fences could be built, it was not something he and his church would like to do. He stated he loved the fact that the church would have new neighbors and the church looked forward to serving, ministering to and interacting with the new neighbors; however, if you ministered to a neighbor and towed away said neighbor's car in the same breath, it sent a poor message. He stated he was concerned about the fact that current zoning law allowed businesses and apartments to be constructed with complete disregard to parking. He stated he understood when the law initially came into place it made sense; however, it now needed to be revised. He stated he had just heard about the possibility of parking in the lots to the east which potentially provided an additional 150 parking spots, which would help certainly, but the reality was the current parking regulation needed to be changed going forward with the next apartment complex, as he did not know if anything could be done about this current project. He stated he hoped Mr. Easley would indeed provide additional parking or it would certainly cause hardship for the First United Methodist Church. He stated he loved the Rose District, his church was the first building in the Rose District, built 115 years ago, and he sincerely hoped City Council would seriously make an effort to change the law to provide for the parking needs within the Rose District. He stated he wondered if City Council could require Milestone to indeed move forward with the additional parking in the lots to the east.

Vice Mayor Eudey state City Council could not legally retroactively require that the additional parking be provided by Milestone; however the Council would look into the situation. Council Member Parks stated he agreed with Pastor Varvel, the parking regulations and requirements were currently out-of-date and needed to be changed. Pastor Varvel stated he felt he should have been aware of the current law, but was unsure how to be made aware of such things, especially when City Council was unaware. Council Member Parks intimated City Council had not run into this problem before; Broken Arrow had a lot of laws and it was difficult to be universally aware of all. He stated this was a new and large project which the Council had not come across in the past; however, City Council would learn from this. Vice Mayor Eudey stated this was the largest project proposed in the Rose District in 100 years.

Pastor Varvel stated he respected Mission 22, and a week ago Saturday a funeral was held at the Methodist Church for a young man who had PTSD and took his own life, for which more than 600 were in attendance. He stated if this had happened two years from now in the future and visitors to the restaurants, shops and apartments next door were parked in the church parking lot, attendees of the funeral would have had no place to park. He stated he feared that visitors to the development would not understand that churches had events on Saturdays and would assume that parking in the church lot would not be problematic. He intimated he wanted to be a good neighbor, and Mr. Easley and he were currently on good terms; however, the current law, as it stood, was inadequate to the needs of the Downtown District.

Citizen Rachel Swekosky stated her address was 501 South 27<sup>th</sup> Street. She stated she moved to Broken Arrow in 1970 and had many wonderful memories of past City Council Members. She stated she used to be a fourth grade teacher, taught City Government and State Government, and she was pleased to have former Mayor Jim Reynolds come to her classroom and explain to her fourth graders all about City Government. She stated after the discussion one student raised his hand and asked Mayor Reynolds "Just how much to you get paid?" and Mayor Reynolds turned around and wrote \$0 dollars on the chalk board, shocking her students. She stated she appreciated City Council and appreciated the vision City Council had to improve Broken Arrow. She stated this brought her to the issue of ordinances, and she wondered if this parking ordinance could be amended to meet the needs of the Citizens of Broken Arrow after it had already been passed. She stated when she attended the Planning Commission Meeting a resident had asked if the Planning Commission had foreseen an apartment building in the future in Downtown Broken Arrow, and the Planning Commission responded in the affirmative. She stated this made her wonder why action had not been taken to

prevent exactly this type of problem. She stated if the Planning Commission had anticipated an apartment building, then it should have anticipated the parking problems which would arise and take preventative steps. She stated an ordinance could have been amended, a restriction could have been placed on the number of apartments, or a meeting could have been called including the surrounding property owners to determine if a solution could be found. She stated she felt if this project had been proposed to be built next door to the PAC many more citizens would have been in attendance demanding changes be made going forward. She stated she appreciated the vision Broken Arrow had for older citizens like herself, as was addressed in the 2018 GO Bond, but the city needed to be able to fix this type of problem in the next 20 years. She stated City Council's vision and plan through the GO Bond program was wonderful, but in her experience it was impossible to develop a plan which would work for 20 years without a hitch. She stated there needed to be a way to solve problems such as this as the problems arose. She stated she was thrilled with what was expressed at tonight's Meeting; that City Council was concerned and would work together with Planning Commission and Mr. Easley to hopefully find a solution. However, she stated, it was important to find a solution for future situations, not just this current situation. She stated there were historical sites which also needed to be appreciated and cared for. She thanked City Council for its efforts and for its attention to this matter.

Vice Mayor Eudey asked the City Attorney and City Manager, with this particular item, if he was correct in the understanding that City Council could not force Milestone to abide by an ordinance passed after the fact. Acting City Attorney Dennis responded in the affirmative. Vice Mayor Eudey stated with that understanding, it would be appropriate for City Council to look at how developments were viewed in the future. He stated he wanted the Rose District to grow and have many developments similar to this, and it would behoove City Council to investigate this further. He stated with regard to this situation the only thing City Council was being asked to do was consider modifications in the design of the building itself. Acting City Attorney Dennis concurred.

City Manager Spurgeon stated that the city wanted to be certain that the Rose District was successful, not just today, but well into the future. He stated the Community had a major investment in Downtown. He stated there were funds in the Bond Package in Proposition No. 1 for infrastructure specifically for Downtown. He stated this current situation would be monitored, and the city would work with the developer and if there was in fact a need for additional parking for the area, he would come back to the Council and recommend the city develop additional parking. He stated he felt the city had a responsibility to ensure all visitors to the City of Broken Arrow and the Rose District had a good experience. He stated while parking could not be provided in front of every door of every business, after this property was developed, if there was a need for parking he would come before Council requesting accommodations be made to acquire property, possibly using a portion of the infrastructure funds to develop additional parking.

Council Member Parks stated he approved of City Manager Spurgeon's intentions. He stated he felt the ordinances still needed to be addressed to prevent similar future situations. City Manager Spurgeon concurred and stated he would meet with Michael Skates from Development Services and investigate the situation further.

MOTION: A motion was made by Mike Lester, seconded by Debra Wimpee.

**Move to approve PUD 281 as recommended by the Planning Commission and Staff and abrogate SP 137**

The motion carried by the following vote:

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

**C. 18 1003 Consideration, discussion, and possible approval of PUD 282 (Planned Unit Development) Chase Bank, 1.35 acres, CH, one quarter mile south of Albany Street, east of 9th Street**

Mr. Larry Curtis stated the applicant proposed to develop the property for use as a financial institution. He reported on December 20<sup>th</sup>, 1999, City Council approved BAZ 1396, a request to rezone the site from A1 to C5 which was now CH under current zoning ordinance, subject to the property being platted. He stated the project site was platted as lot 1, block 1, of Hillcrest Lane, Lynn Lane, recorded in Tulsa County on February 15<sup>th</sup>, 2006. He stated, as part of the 9<sup>th</sup> Street widening project, Reno Street was routed to the south and became 10<sup>th</sup> Street and the pavement of Reno Street was removed from 10<sup>th</sup> Street, but the right-of-way remained. He stated on August 9<sup>th</sup>, 2008, the Planning Commission approved a request for a change of access to allow access from the north property boundary across the Reno Street right-of-way to 9<sup>th</sup> Street and a second driveway was proposed along the east side of 10<sup>th</sup> Street. He reported the zoning ordinance required a screening fence when nonresidential use abutted residential use; however, through the PUD the applicant requested a waiver of the screening requirement as Reno Street right-of-way provided a buffer between the project site and the residential neighborhood to the north and there was an existing masonry wall along the perimeter of the residences. He stated the parking requirement for the financial institution with a drive through was one space per 300 square feet, along with a minimum of twelve spaces for a minimum of fifteen spaces, plus the stacking space for the drive through. He reported through the PUD the applicant requested approval to have forty parking spaces, one free standing sign to permit for 150 feet of frontage; for lots with multiple frontages the street frontage was not cumulative. He stated sign height was limited to twenty feet and the applicant requested approval to have two twenty feet high pile-on signs with 75 square feet of sign area for each.

Mr. Curtis reported in the Meeting on August 9<sup>th</sup>, 2018, the Planning Commission recommended approval of PUD 282 by a vote of 5 to 0, per staff recommendation. He stated the Planning Commission further recommended that the right in and out turning movements be constricted for the driveways proposed for Reno Street and 9<sup>th</sup> Street. He reported the city provided funding for improvements of the intersection in the General Obligation Bond; therefore, with the funding approved engineering was studying the prospect of re-opening Reno Street with the improvements which would improve traffic flow in the area. He stated Staff recommended PUD 282 be approved subject to the limits of no access along the north boundary line to allow for driveway access through Reno Street right-of-way.

Council Member Lester asked if Reno Street was the grassed area on the north side of the property. Mr. Curtis responded in the affirmative. Council Member Lester asked to be shown exactly where entry access would be for the property. Mr. Curtis displayed a map of the property and pointed out the entry access points. Vice Mayor Eudey stated the residential area behind this property currently had traffic issues; he asked if these would be addressed. Mr. Curtis responded in the affirmative. He explained this current project did not address the traffic issues; however, the GO Bond provided for the address of the traffic issues. Discussion ensued regarding traffic problems in the area and through the neighborhood, reasons for where the financial institution's access points were to be located, signage, one sign versus two signs, size, height and placement of signage.

Council Member Lester stated he was worried if City Council allowed this institution to erect two signs it would cause other business to attempt to erect two signs. He asked if the sign Ordinance needed to be modified. Mr. Curtis responded in the affirmative; Staff was reviewing the Ordinance and would bring the update to Council before the end of the year. Vice Mayor Eudey stated the signage modification for this business was being allowed through the PUD only; other businesses would be required to move through the same process in order to justify the use of more than one sign. Mr. Curtis and Mayor Thurmond concurred.

Vice Mayor Eudey stated construction of this financial institution (Chase Bank) would significantly increase traffic through the area, which was already congested; he asked when Reno Street would be opened for use. Mr. Kenny Schwab, Assistant City Manager of Operations, responded the GO Bond provided for improvement of the Hillside Drive intersection, which included the possibility of opening up Reno Drive. He stated the timing of the project had not yet been determined. Council Member Lester stated he worried that opening up Reno might increase traffic congestion. Mr. Schwab stated the staff would meet with the owners of the homes which were located along Reno Street to determine whether re-opening Reno Street was desirable.

City Manager Spurgeon briefly discussed how the cost for the intersection and road improvement project would be determined, and possibilities for funding the project further than the GO Bond through ODOT, Build Funds and State funds.

Vice Mayor Eudey asked if this bank would be replacing the location currently in south Broken Arrow or if it would be in addition to. Mr. Curtis responded he believed it would be in addition to the current location. Mr. Matthew Cragun with Cumulus Design responded this would be a new location. He stated he was more than willing to work with city staff regarding the access issues; he would do whatever he could to improve the situation. Vice Mayor Eudey Stated Chase had been a good neighbor at its current location and he expected Chase would continue to be a good neighbor at the new location. He stated through no fault of Chase, traffic at this location was a problem and he appreciated city staff's efforts to improve the traffic conditions.

MOTION: A motion was made by Mike Lester, seconded by Debra Wimpee.

**Move to approve PUD 282 subject to the following conditions of approval, that the applicant to amend the limits to no access along the north boundary to allow driveway access through the Reno Street right-of-way**

The motion carried by the following vote:

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

Vice Mayor Eudey recused himself from Item 9D. He left the room at approximately 7:50 p.m.

**D. 18 1047 Consideration, discussion, and possible approval of BAZ 2011, Fire Station No. 3, 3.0331 acres, 1 lot, A 1 to CG, one half mile south of Florence Street, west of 23rd Street, north of the Creek Turnpike**

Mr. Larry Curtis reported the City of Broken Arrow would be purchasing this property with the intention of building a new Fire Station. He stated the property was currently being used for agricultural purposes and was undeveloped. He stated the applicant intended to plat the property if the rezoning request was approved. He stated transfer of title for the lots with BAL 2036 was approved by the Planning Commission in the Meeting of August 23<sup>rd</sup>, 2018 subject to the approval of this rezoning request. He reported in the Meeting on August 23<sup>rd</sup>, 2018 the Planning Commission recommended approval of BAZ 2011 by a vote of 3 to 0, per Staff recommendation, subject to the property being platted. He reported two residents spoke to this item with concerns regarding drainage in the area; none were opposed to the rezoning or the development of a Fire Station. He



stated Staff recommended City Council approve BAZ 2011 per Planning Commission and Staff recommendation.

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

**Move to approve BAZ 2011 per Planning Commission and Staff recommendation**

The motion carried by the following vote:

**Aye: 4 -** Debra Wimpee, Johnnie Parks, Mike Lester, Craig Thurmond  
**Recused: 1 -** Scott Eudey

Vice Mayor Eudey returned at approximately 7:53 p.m. Mayor Thurmond then recused himself from Item 9E. He left the room at approximately 7:53 p.m.

**E. 18 1064 Consideration, discussion, and possible approval of and authorization to execute a Service Agreement for Disaster Recovery Services between the Institute Technology and Safety and the City of Broken Arrow, Oklahoma and an Agreement with the Oklahoma Municipal League for Disaster Recovery Services as a membership benefit**

City Manager Spurgeon stated Public Safety Services consisted of three areas: Police, Fire and Emergency Services. He stated the Public Safety Services were in place to help make certain, within reason, that there were emergency plans in place and the City of Broken Arrow was prepared for man-made or natural disasters. He reported a couple of years ago City Council approved the creation of a new position "Emergency Manager Coordinator" and Mr. Jamie Ott was hired to fill this position. He stated Mr. Ott was a skilled Coordinator who had gained access to services and resources should the city find itself in a state of emergency.

City Manager Spurgeon reported the Item before Council was a Service Agreement with the Oklahoma Municipal League, through the Oklahoma Municipal Services Corporation, to allow Oklahoma cities to enter into agreement with IBTS (Institute for Building Technology and Safety) for inspection services to provide various planning and preparation services which would enable Broken Arrow to be better prepared in emergency situations. He stated if Broken Arrow did not use the contract the city would incur no cost; however, at the discrepancy of Mr. Ott, Chief Berryhill and Chief Moore, if there was a need for emergency preparation expertise, this contract would be in place for use. He stated this could be very beneficial to the City of Broken Arrow in the event there was a need for planning, or an actual emergency situation. He stated he recommended City Council authorize this agreement.

Council Member Lester asked if IBTS would come in and assess Broken Arrow; if IBTS was not aware of what Broken Arrow currently had in place it would be hard to know what was needed. City Manager Spurgeon responded he had spoken with Mr. Ott regarding this. He reported Broken Arrow was updating the pre-disaster plans and Mr. Ott would meet with IBTS and discuss what services could be utilized. He stated IBTS might not be utilized for pre-planning purposes; it might be utilized as an added resource or additional assistance in an emergency situation. Council Member Lester asked if this contract would enable Broken Arrow to better acquire services from government agencies. He asked exactly what services IBTS would provide. City Manager Spurgeon responded IBTS could help in five different ways: disaster planning, plan activation, response planning, post disaster response, recovery administration. He stated if Council approved this contract he would have IBTS's point of contact come to Broken Arrow and sit with Mr. Ott, Chief Berryhill and Chief Moore to determine how best to utilize IBTS's services. Council Member Lester stated he felt Broken Arrow responded extremely well to the ice storm in 2007. City Manager Spurgeon agreed; however, not everyone who was present in 2007 was currently in Broken Arrow's employ. He stated IBTS may or may not be able to be of service to Broken Arrow as the city was extremely capable and able to manage during emergency situations; however, with this contract, if there was a need, the city would have this resource available.

Vice Mayor Eudey commented the Service Agreement was not attached to the Agenda. City Manager Spurgeon stated it was not included as the Legal Department was in the process of addressing some disputed points in the Contract. He stated if Council was uncomfortable, this Item could be tabled until the next Meeting when he would be able to provide Council with the Service Agreement for review. Vice Mayor Eudey stated he would prefer to have the Service Agreement for review prior to a motion. Council concurred.

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

**Move to table Item 9E**

The motion carried by the following vote:

**Aye: 4 -** Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey  
**Recused: 1 -** Craig Thurmond

Mayor Thurmond returned at approximately 8:02 p.m.

**F. 18 1026 Consideration, discussion and possible approval of and authorization to purchase two (2) Pierce aerial fire apparatus from Conrad Fire Equipment, Inc. pursuant to the Houston Galveston Area Council (HGACBuy) contract, and authorization to pre pay Conrad Fire Equipment, Inc. for such purpose for the Fire Department**

Fire Chief Jeremy Moore stated this Item would save the City of Broken Arrow a significant amount of money by utilizing a couple of new purchasing methods. He stated July 17<sup>th</sup>, 2018 City Council entered into an inter-local agreement with the Houston Galveston Area Council (HGAC) which was a huge buying consortium out of Texas. He stated the HGAC process had been reviewed by Legal and HGAC complied with all State purchasing laws. He stated through the HGAC the City of Broken Arrow would save approximately \$17,000 dollars on the purchase of the two fire trucks due to much lower fee accumulation. He reported Broken Arrow currently had the money budgeted for the fire trucks and if the city took advantage of the Pierce Manufacturing pre-pay program an additional \$44,000 dollars could be saved. He stated HGAC provided a 100% performance bond which would ensure Broken Arrow would recover any funds pre-paid if the trucks were faulty, not delivered, etc. He stated Legal had reviewed and approved of the performance bond. He stated with the \$61,000 dollar savings the Fire Department would be able to purchase two aerial platforms, ladder attachments which allowed multiple fire fighters to work at the top of the ladder as opposed to a single fire fighter. Chief Moore briefly described the two fire trucks which would be purchased and displayed pictures of said trucks. He stated the Fire Department recommended City Council approve the purchase of two Pierce aerial fire apparatus utilizing the HGACBuy program and utilizing the pre-payment program offered by Pierce Manufacturing. He asked if there were questions.

City Manager Spurgeon asked if the funding source was the General Obligation Bond. Chief Moore responded in the affirmative; funding came from the GO Bond, as well as STCI fund (Sales Tax Capital Improvement fund).

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

**Move to approve and authorize the purchase two (2) Pierce aerial fire apparatus from Conrad Fire Equipment, Inc. pursuant to the Houston Galveston Area Council (HGACBuy) contract, and authorization to pre pay Conrad Fire Equipment, Inc. for such purpose for the Fire Department**

The motion carried by the following vote:

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

## 10. Preview Ordinances

- A. 18 1065 Consideration, discussion and possible preview of an Ordinance of the City of Broken Arrow amending the City of Broken code of ordinances chapter 7, adding Article XV Medical Marijuana, Business Regulations and Licensing, Establishing Regulations for Retail Medical Marijuana Establishments, Commercial Marijuana growing facilities, Wholesale Marijuana Facilities, Marijuana Storage Facilities; and repealing all ordinances to the contrary and declaring an emergency**

Acting City Attorney Dennis reported this Ordinance had been previewed two weeks ago. He stated Legal made some changes to the Commercial Grow and Processing requirements, as well as additional regulations added. He stated one change indicated that all Commercial Processor facilities would be located entirely indoors and secured as required by the Department of Health rules and regulations. He stated additionally Growers and Processors were prohibited to have marijuana plants visible from any public right-of-way, and all buildings were required to be properly vented to prevent humidity, mold, etc. He stated possible public nuisances were addressed, such as light, glare, noise, odor, vibration, etc. He stated new conditions and regulations for operations were created which specifically addressed the smell of noxious odors from smoking/consumption of medical marijuana which would be considered a public nuisance. He stated a restriction prohibiting smoking or vaping marijuana on all city property had been created, to include vehicles, buildings, parks or other facilities. He stated a provision was provided for the revocation or suspension of any City Licenses for medical marijuana, if there was revocation of the State license, or if Broken Arrow determined a license was procured through fraud or falsified information.

Council Member Lester asked if the Ordinance could be adjusted to reflect a separation of marijuana growers, processors and dispensaries from child care centers. Acting City Attorney Dennis responded in the affirmative. He explained the ordinance indicated a license would not be issued for a dispensary, processor or grower if it was not allowed under the Broken Arrow zoning ordinance and the next ordinance for preview addressed location and zoning restrictions.

Council Member Parks asked if State Legislation, as it passed, could force Broken Arrow to revisit and change local laws. Acting City Attorney Dennis responded in the affirmative. Council Member Parks asked if Mr. Dennis anticipated changes in the Stated Legislature. Acting City Attorney Dennis responded in the affirmative. Council Member Wimpee asked if the Planning Commission had made any decisions regarding Commercial Growers. Acting City Attorney Dennis responded Mr. Larry Curtis had this information and would present it shortly.

Mayor Thurmond stated two Citizens signed up to speak.

Citizen Bryan Howard stated his address was 512 West Detroit Street. He asked if the \$2500 dollar fee for marijuana licensing applied to each processing, growing and dispensary license application. Mayor Thurmond responded in the affirmative. Mr. Howard asked what the City of Broken Arrow licensing qualifications would be and would the qualifications be different from State qualifications. He asked if an applicant had been approved and issued licensing by the State, why should said applicant be required to also apply for licensing through the city. Acting City Attorney Dennis responded the State's interest in regulating licensing was different from the city's interest; for example the city would inspect the applicant's building to ensure the local building and fire code was followed; in addition, the identity, address, phone numbers, hours of operation, etc., would be confirmed. He stated there were many specific requirements the city needed to review in processing an application; therefore, the city was entitled to collect a fee to provide this service. Mr. Howard stated the city intended to zone marijuana dispensaries with the same requirements as liquor stores; however, the State indicated dispensaries were medical facilities; therefore, he felt dispensaries should be zoned similar to pharmacies. He asked what qualified as indoors in terms of growing marijuana and/or processing; was this brick and mortar, green house, etc. Acting City Attorney Dennis responded if a licensed individual was growing plants the requirement was the plants needed to be behind a 6 foot tall, locked, opaque fence, not visible from any public right-of-way; commercial growers had various specific restrictions, but ultimately growing and processing were required to not be visible from any public right-of-way.

Citizen Brooklyn Green Clopton stated her address was 4200 South Aspen Avenue. She stated she grew up in Broken Arrow, owned property in Broken Arrow, and was a small business owner, as well as a local activist. She stated she had been preparing for the medical marijuana movement to come to Broken Arrow for quite some time and she firmly believed in the medical benefits of cannabis. She stated she agreed dispensaries should be treated as pharmacies. She stated she felt it was important to discuss the rate at which the state would be consuming marijuana. She stated Arizona had a thriving medical marijuana program; in 2012, at the beginning of the program, 0.5% of Arizona's population adopted medical cannabis as a medication and over the past six years this number grew to 1.9% of the population. She stated using this as a measurement, Broken Arrow, population 100,000, should expect maybe 1,000 residents registering and utilizing medical marijuana the first year. She reported the average patient consumed less than one ounce per month; therefore, Broken Arrow only needed access to approximately 1,000 ounces per month which could be dispensed from one or two dispensaries. She stated it was important to disperse the dispensaries so patients were not required to drive across town for medication. She stated she felt it was important to treat the program and the dispensaries as pharmacies, not as liquor stores. She stated her group had a doctor on the dispensary board, had a location in mind for a dispensary, and had a pharmacist on staff as an advisor, all of whom believed in the benefits of medical cannabis. She thanked City Council for its attention and efforts.

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

**Move to preview the Ordinance and set it for adoption**

The motion carried by the following vote:

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

**B. 18 1059 Consideration, discussion and possible preview of an Ordinance Amending Section 3.1.F (Table 3.1 1) Table of Allowed Uses; and Section 5.4 (Table 4.4.1) Off Street Parking Schedule A; and Section 10.3.D.1 Definitions of General Use Categories and Specific Use Types; and Section 10.3.D.9 Definitions of General Use Categories and Specific Use Types of the Broken Arrow Zoning Ordinance; and declaring an emergency**

Plan Development Manager Larry Curtis reported extensive research had gone into this ordinance and he felt it was a good fit and a good starting point for Broken Arrow. He stated the Planning Commission determined that the best location for growers within the city would be within the Industrial Districts. He stated growers were required to grow inside a building which would be required to be secured, as well as meet building codes and visibility restrictions. He stated an added subcategory was recommended for medical marijuana commercial growing cultivation facilities to be permissible by right in the IL and IH zoning district, and that a change in the definition section of the zoning ordinance be made to reflect these changes. He stated Staff and Planning Commission recommended manufacturing of marijuana be permissible in IL and IH zoning districts and be treated as a light manufacturing industry. He explained this would not change the ordinance; it would only be an interpretation of the current zoning ordinance that this use be permissible within the IH and IL zoning districts. He displayed a map of the city which indicated where the IH and IL zoning districts were located.

Mr. Curtis reported the Planning Commission closely reviewed the related uses of medical marijuana dispensaries underneath Title 63420A which expressed "all applicants for medical marijuana licenses must be 18 years of age or older. A special exception is granted to an applicant under the age of 18; however, the applicant must be signed by two physicians and the applicant's parent or legal guardian must be a caregiver who is at least 18 who must make the purchase." He stated, in addition, there was a requirement that medical marijuana

dispensaries be 1,000 feet from any public or private entrance of a school. He stated zoning code defined schools as “public or private facilities or colleges, universities, elementary, middle school, high school, and trade schools.” He stated the zoning ordinance did specify that child care facilities were not included in this definition; child care facilities had a separate definition within the zoning ordinance. He stated when beginning the analysis Staff had thought of classifying medical marijuana retail sales as similar to pharmacies which were permitted use in the group of general retail; however, when staff looked at facilities such as Walgreens and CVS, he explained, such pharmacies were not restricted by law on sales by age, or by location to a school facility, and as most retail facilities did not have such limitations, it was determined that general retail use was not the best category to define a medical marijuana dispensary. He stated staff concluded that such use most closely resembled Broken Arrow’s zoning ordinance of alcoholic beverage retail sales, as medical marijuana purchase was strictly restricted by age and by distance from schools. He stated this would make medical marijuana dispensaries possibly permissible in the CM, DM, CN, CG and CH zoning districts, while also being possibly permissible within area 6 and 7 of the Downtown Residential Overlay District. Mr. Curtis displayed a map which signified the areas where dispensaries would be permitted through current zoning, as well as where schools, including buffer zones, were located throughout Broken Arrow. Mr. Curtis displayed a map of the Downtown Residential Overlay District which indicated where dispensaries would be possible. Mr. Curtis displayed a map which demonstrated where child care centers, including buffer zones, were located within the city in relation to possible areas for dispensaries.

Council Member Lester asked if any restriction had been placed upon growers or processors in relation to school locations. Mr. Curtis responded in the negative; however, the city had the right to set such restrictions. Acting City Attorney Dennis stated the city needed to be careful in its decisions regarding where to allow dispensaries, as State Law sited cities could not unduly restrict the placement of retail dispensaries. He stated the city was not allowed to create restrictions which would prohibit growers and processors within City limits. Council Member Lester asked if the same restrictions placed upon dispensaries could be placed upon growers and processors. Acting City Attorney Dennis responded in the affirmative. Council Member Wimpee asked if a buffer could be placed between residential areas and growers/processors. She stated she was concerned about fumes emitted by processing plants affecting residential areas, schools, churches, etc. Acting City Attorney Dennis responded in the affirmative; more research could be conducted regarding buffer zones and the areas which surround the industrial and light industrial zones. Mr. Curtis displayed a map which showed where industrial, residential, and agricultural areas were located. He stated if a buffer restriction were placed upon growers and processors, then there were certain industrial park locations in which it would prove impossible to conduct a marijuana related business. Acting City Attorney Dennis reported the City of Broken Arrow would have nuisance abatement procedures in place (specifically included in licensing applications) which enabled the city to address any nuisance smell, fume, noise, light, etc. Mr. Curtis stated in the interpretation of light manufacturing any type of nuisance was prohibited. Council Member Wimpee asked if a cap could be placed on the number of dispensaries the city would allow. Acting City Attorney Dennis responded in the negative; State Law did not currently allow a cap. Council Member Wimpee asked if a certain amount of space between dispensaries could be required. Acting City Attorney Dennis responded in the affirmative; this could be considered.

Vice Mayor Eudey stated he may not like the law, but it was still the law. He asked if the Ordinance in question was consistent with State Law and the State’s requirements to allow medical marijuana dispensaries, growers and processors to conduct business within Broken Arrow City Limits. Acting City Attorney Dennis responded in the affirmative. Vice Mayor Eudey stated he understood every Council Member had an opinion regarding State Question 788; however, it was State Law and until it was changed or modified by constitutional grounds Broken Arrow was required to comply. He stated he wanted to ensure that Broken Arrow was consistent with the law, offering no more and no less than what the city was obligated to provide individuals or businesses wishing to engage in the medical marijuana business; therefore, if Acting City Attorney Dennis construed this Ordinance, as it was drafted, addressed this, then he felt the city had met its obligations. Acting City Attorney Dennis concurred.

Discussion ensued regarding abandoned marijuana plants, policies pertaining hereto, police involvement, health department regulations regarding disposal, and creation of policy to address such matters.

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

**Move to preview the Ordinance and set it for adoption**

The motion carried by the following vote:

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

## 11. Ordinances

There were no Ordinances.

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

Mayor Thurmond stated he appreciated City Council taking care of things while he was absent. He reported he had a non-profit organization meeting he had to attend and was out of town for a Conference of Mayors Meeting at which he learned a great deal.

Vice Mayor Eudey stated the Youth City Council Applications were technically due today; however, the application deadline had been extended another week and he encouraged any interested young person to apply.

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

City Manager Michael Spurgeon reported November 6<sup>th</sup>, 2018 was a regular City Council Meeting, but it was also the week of the National League of Cities which the Council Members intended to attend; therefore, he suggested holding the City Council Meeting on November 5<sup>th</sup>, 2018 or November 13<sup>th</sup>, 2018. Discussion ensued regarding holding the meeting on November 5<sup>th</sup>, 2018.

City Manager Spurgeon stated Thursday morning at 10 a.m. was the ground breaking for the Milestone Project, and he invited the governing body to attend.

City Manager Spurgeon stated Police Canine Havoc recently passed away and a memorial ceremony was held on his behalf. He gave a brief history describing Havoc’s growth, training and life’s work including receipt of a National Certificate through the American Police Dog association. He thanked the Police Department and Havoc for his service to the Community of Broken Arrow.

At approximately 8:47 p.m. Mayor Thurmond stated he would entertain a motion for a brief recess to enter into Broken Arrow Municipal Authority and Broken Arrow Economic Development Authority.

**MOTION: A motion was made by Scott Eudey, seconded by Mike Lester.  
Move for a brief recess to meet for Broken Arrow Municipal Authority and Broken Arrow Economic Development Authority**

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

At approximately 8:52 p.m. Mayor Thurmond reconvened the regular session of the City Council Meeting. He stated there was an Executive Session and he would entertain a motion for a brief recess to clear the room for the Executive Session.

**MOTION: A motion was made by Mike Lester, seconded by Scott Eudey.  
Move for a brief recess to clear the room for the Executive Session**

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

**MOTION: A motion was made by Scott Eudey, seconded by Debra Wimpee.  
Move to enter into the Executive Session**

The motion carried by the following vote:  
**Aye: 5 -** Debra Wimpee, Johnnie Parks, Mike Lester, 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 any other pertinent staff members discussing and conferring on matters pertaining to:**

- 1. Possible Litigation, including potential resolution, of a matter involving the tort claim of Elias Neuman 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).**
- 2. Litigation, including potential resolution, of a matter involving the litigation case of John Loerch vs. City of Broken Arrow, Tulsa County District Court Case Number CJ 2017 2627, under 25 O.S. §307(B)(4).**
- 3. Litigation, including potential resolution, of a matter involving the litigation case of B Z Properties vs. City of Broken Arrow, Wagoner County District Court Case Number CV 2018 43, 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 pending claim, litigation and possible litigation and that 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.**

At approximately 9:11 p.m. Mayor Thurmond reconvened the regular session of the City Council Meeting.

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

**Move to authorize the City Attorney to proceed with settlement negotiations of the tort claim of Elias Neuman as directed in Executive Session**

The motion carried by the following vote:

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

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

**Move to authorize the City Attorney to proceed with settlement negotiations of the matter of B-Z properties, case number CV-18-43 and CV-18-22 as directed in Executive Session**

The motion carried by the following vote:

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

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

**Move to authorize the City Attorney to proceed with settlement negotiations in the matter of Loerch v. the City of Broken Arrow as directed in Executive Session**

The motion carried by the following vote:

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

### 15. Adjournment

The meeting adjourned at approximately 9:13 p.m.

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

**Move to adjourn**

The motion carried by the following vote:

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

Attest:

s/Craig Thurmond \_\_\_\_\_  
Mayor

s/Curtis Green \_\_\_\_\_  
City Clerk