



City of Broken Arrow

City Hall
220 S 1st Street
Broken Arrow OK 74012

Minutes City Council

Mayor Craig Thurmond
Vice-Mayor Scott Eudey
Council Member Christi Gillespie
Council Member Johnnie Parks
Council Member Debra Wimpee

Tuesday, May 21, 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

Pastor Daniel Chamberlain performed the Invocation.

3. Roll Call

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

4. Pledge of Allegiance to the Flag

Councilor Gillespie led the Pledge of Allegiance to the Flag.'

5. Consideration of Consent Agenda

Mayor Thurmond stated Item I would be removed from the Consent Agenda for discussion. He asked if there were any other items to be removed from the Consent Agenda. There were none.

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

Move to approve the Consent Agenda Excluding Item I

The motion carried by the following vote:

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

- A. 19-10 Approval of the City Council Meeting Minutes of May 7, 2019**
- B. 19-608 Accept Planning Commission meeting minutes of April 11, 2019**
- C. 19-609 Accept Planning Commission meeting minutes of April 25, 2019**
- D. 19-596 Ratification of increased funding amount for Tulsa County Urban County Community Development Block Grant (CDBG) Application for FY2019**
- E. 19-606 Approval of and authorization to execute Resolution No. 1223, a Resolution confirming the supplementation and publication of the City of Broken Arrow's Code of Ordinances**
- F. 19-532 Approval of and authorization to execute a Promotional License on City Property between the City of Broken Arrow and Arts OK of Broken Arrow, Inc. to host the 2019 Chalk It Up event**
- G. 19-533 Approval of and authorization to execute a Promotional License on City Property between the City of Broken Arrow and Keep Broken Arrow Beautiful, LLC to host the 2019 Rose Festival**
- H. 19-583 Approval of and authorization to execute Professional Services Contract with Geodeca, LLC for providing professional surveying and related support services for the design of Houston Street widening from Aspen Avenue to Elm Place (Project No. ST1944)**
- I. 19-582 Approval of and authorization to execute a Professional Services Agreement with Cowan Group Engineering, LLC, for design of Stone Ridge Towne Center Drainage Improvements (Project No. SW 1910)**
- J. 19-607 Approval of and authorization to execute Change Order CO2 for Construction Contract 171703; Tiger Hill Soldier Pile Retaining Wall**
- K. 19-585 Award the lowest responsible bid to Cherokee Pride Construction, Inc. and approve and authorize execution of a construction contract for Portland Cement Concrete Street Repair**
- L. 19-573 Approval of SP 293 (Specific Use Permit), Independent School District No. 9 (Union Public Schools, Anderson Elementary), 5.568 acres, R 2, located one half mile south of Houston Street (81st Street), one half mile west of Olive Avenue (129th E. Avenue)**
- M. 19-574 Approval of SP 295 (Specific Use Permit), Independent School District No. 9 (Union Public Schools, Moore Elementary), 11.95 acres, Single Family Residential (R 1), located**

south and east of the southeast corner of Kenosha Street (71st Street) and Garnett Road (113th E. Avenue)

- N. 19-571 Approval of SP 232A (Specific Use Permit), Independent School District No. 9 (Union Public Schools, McAuliffe Elementary), 9.64 acres, Residential Multi Family (RM)/Single Family Residential (R 3), located one quarter mile north of Kenosha Street (71st Street), east of Garnett Road (113th E. Avenue)
- O. 19-565 Approval of (Rezoning) BAZ 2026, Wolber Personal Home, 0.18 acres, Downtown Mixed Use (DM) to Downtown Fringe (DF), one eighth mile north of Houston Street (81st Street), one third mile south of Houston Street (81st Street), one half mile east of Elm Place (161st East Avenue) on the northeast corner of Jackson Street and Main Street
- P. 19-575 Approval of PT03 125A, Conditional Final Plat, Johanna Woods II, 5.0183 acres, 25 Lots, Agricultural (A 1) to (Planned Unit Development) PUD 30C/Residential Mobile Home (RMH) via (Rezoning) BAZ 2001, located south of Omaha Street (51st Street), one half mile east of 23rd Street (193rd E. Avenue)
- Q. 19-586 Approval of and authorization to execute Resolution No. 1217, a Resolution authorizing acceptance of a General Warranty Deed for Parcel 3, which consists of 0.0282 acres of permanent Right of Way for the Broken Arrow Creek Trail located at 4029 South Ash Avenue, Broken Arrow in the Northwest Quarter of Section 26, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from Matt and Stephanie Cox and authorization of payment in the amount of \$9,400.00 for the Broken Arrow Creek Trail, Phase 1, Parcel 3. (Project No. 146020)
- R. 19-592 Approval of and authorization to execute Resolution No. 1219, a Resolution authorizing acceptance of a General Warranty Deed for Parcel 1, which consists of 0.0027 acres of permanent Right of Way for the Old Town Streets, Ash Avenue Rehabilitation: Dallas to College, generally located on Ash Avenue south of Dallas, Broken Arrow in the Southwest Quarter of Section 11, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from AVB Bank for Old Town Streets, Parcel 1. (Project No. ST1711)
- S. 19-590 Approval of and authorization to execute Resolution No. 1220, a Resolution authorizing acceptance of a General Warranty Deed for Parcel 1.2, which consists of 0.2194 acres of permanent Right of Way located at the northeast corner of Washington and Garnett in the Southwest Quarter of Section 17, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from RCB Bank, the owner, for the Washington Street Improvements: Garnett to Olive, Parcel 1.2 (Project No. ST1616)
- T. 19-591 Approval of and authorization to execute Resolution No. 1221, a Resolution authorizing acceptance of a General Warranty Deed for Parcel 2, which consists of 0.0022 acres of permanent Right of Way for the Old Town Streets, Ash Avenue Rehabilitation: Dallas to College, generally located on Ash Avenue south of Dallas, Broken Arrow in the Southwest Quarter of Section 11, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from AVB Bank for Old Town Streets, Parcel 2. (Project No. ST1711)
- U. 19-593 Acceptance of a Trail/Sidewalk Easement from Armory, LLC on a portion of unplatted property approximately one quarter mile west of 9th Street (Lynn Lane), one quarter mile south of 91st Street (Washington Street), shown as Exhibit A (Section 23, T18N, R14E) (Washington Lane)
- V. 19-568 Acceptance of a Utility Easement from Armory, LLC on a portion of unplatted property approximately one quarter mile west of 9th Street (Lynn Lane), one third mile south of 91st Street (Washington Street), shown as Exhibit A (Section 23, T18N, R14E) (Washington Lane)
- W. 18-1435 Approval of the Broken Arrow City Council Claims List for May 21, 2019

6. Consideration of Items Removed from Consent Agenda

- I. 19-582 Approval of and authorization to execute a Professional Services Agreement with Cowan Group Engineering, LLC, for design of Stone Ridge Towne Center Drainage Improvements (Project No. SW 1910)

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

Move to remove Item I from the Consent Agenda

The motion carried by the following vote:

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

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

A. 19-572 **Presentation to and recognition of Officer Patrick Chernisky from the Tulsa Area Safe Kids Coalition as the 2019 Metro Technician of the Year.**

Major Kevin Marks made a presentation about the Broken Arrow Police Department Crime Prevention Unit and the Tulsa Area Safe Kids Coalition. He stated that Officer Chernisky in 2012 took a leadership role in this effort and refined the process by working closely with Tulsa Area Safe Kids, Broken Arrow Crime Prevention, and the Broken Arrow Fire Department, which ultimately led to establishing Fire Station No. 6 as a base for ongoing monthly child passenger safety inspections. Major Marks noted that Officer Chernisky has been a tireless champion for child safety, as well as educating the public as to why this is an important issue, and that Officer Chernisky has been responsible for the facilitation of over 1300 child passenger safety restraint inspections since 2012.

Beth Washington of the Tulsa Area Safe Kids Coalition remarked that Officer Chernisky has been a child passenger safety technician for over 10 years, and he became a technician while he was working at the Bixby Police Department. She noted that in 2011, Officer Chernisky moved to Broken Arrow and became a Broken Arrow police officer. She stated that Officer Chernisky is a valuable asset to the Child Passenger Safety community and thanked him for his tireless efforts.

Major Marks remarked that Officer Chernisky's actions clearly exemplify the Broken Arrow Police Department's concept of protecting and serving, and demonstrates the department's core values and mission perfectly.

Mayor Thurmond thanked and congratulated Officer Chernisky.

8. Citizens' Opportunity to Address the Council on General Topics Related to City Business or Services (No action may be taken on matters under this item)

There were none.

9. General Council Business

A. 19-597 **Consideration, discussion, and possible approval of and authorization to execute the Fiscal Year 2019 20 Labor Agreement with the Fraternal Order of Police Lodge #170**

Jeanette McCormick, Human Resources Director, stated that the City's negotiation team began contract negotiations on March 25, 2019, that by late-April, they reached a tentative agreement, and on May 6, the lodge membership ratified this agreement. She explained that the proposed agreement provides for the following changes:

- An increase in the uniform allowance for ballistic vests from \$800 to \$1,100
- An increase in the annual holiday accrual from 106 hours to 114 hours
- Clarification to the existing use of City vehicles article in the contract
- A 2.25 percent base wage increase for all bargaining unit members effective July 1 and an additional 2.25 percent increase effective January 1, 2020.

She asked for the City Council's approval on the proposed agreement with the Fraternal Order of Police Lodge 170.

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

Move to approve and authorize the execution of the Fiscal Year 2019-20 Labor Agreement with the Fraternal Order of Police Lodge #170

The motion carried by the following vote:

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

B. 19 602 **Consideration, discussion, and possible action regarding setting a hearing date for an appeal of the Planning Commission decision on PUD 288 (Planned Unit Development) and BAZ 2024 (Rezoning), Village at 1Eleven, 28.95 acres, Agricultural (A 1) to Community Mixed Use (CM) and RS 4 (Single Family Residential)/ PUD 288 (Planned Unit Development), located at the northwest corner of Florence Street (111th Street) and Aspen Avenue (145th E Avenue)**

Larry Curtis, Acting Director of Development Services, presented that Planned Unit Development PUD-288 and BAZ 2024 involve a 28.95 acre undeveloped tract located on the northwest corner of Florence and Aspen Avenue, and that the applicant is requesting that the zoning on the unplatted property be changed from A1 (Agricultural) to CM (Commercial mixed-use) and RS-4 (Single Family Residential) with a PUD overlay of PUD 288. He stated that the item was considered by the Planning Commission on public hearing on May 9, 2019, and that two commissioners voted for the approval, two commissioners voted against the approval, and one commissioner recused from the discussion of the vote, resulting in a denial of PUD 288 and BAZ 2024. He added that the applicant has submitted a letter of appeal to the Division of Planning and Development on May 10, 2019. He indicated that staff requests that the appeal date be set for June 17, 2019, to allow for proper notification requirements to be

met.

Council Member Debra Wimpee asked if all proper notifications could be made, and Larry Curtis responded that, yes, they can be made and that notifications will be made by mail and sign placement on the property to meet all standard notification requirements.

Citizen Diana Coscia at 4305 South Tamarack Avenue Broken Arrow spoke in favor of this item. She stated that she was disturbed about an e-mail she received in opposition of this item, and she shared some excerpts from the e-mail. She concluded by thanking the City Council for listening and knowing that there are many people in the community who are very interested in the development for south Broken Arrow.

Mayor Craig Thurmond added that Council is just setting a hearing date tonight and asked that Ms. Coscia considers returning to speak at the hearing. Ms. Coscia thanked the Mayor and agreed to return.

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

Move to approve the appeal hearing date to be set for June 17, 2019.

The motion carried by the following vote:

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

C. 19 513 Consideration, discussion, and possible approval of PUD 289 (Planned Unit Development) and BAZ 2025 (Rezoning), Harvest Center, 75.03 acres, A 1 (Agricultural) to PUD 289 (Planned Unit Development)/IL (Industrial Light), located one half mile north of Houston Street (81st Street), west of 23rd Street (County Line Road)

Larry Curtis presented this item and stated that PUD 289 involves a 75.03 acre parcel located one-half mile north of Houston Street, west of 23rd Street, on the south side of College Street. He noted that in conjunction with PUD 289, the applicant has submitted BAZ 2025, and the applicant requests to change the underlying zoning from A1 (Agricultural District) to IL (Industrial Light). Mr. Curtis remarked that, according to the PUD design statement, the project is planned as a light industrial complex. As part of PUD 289, the property is divided into two Development Areas, A and B. The project will be platted and developed in phases, with Development Area B being the first phase to be developed. Harvest Center is proposed to be developed in accordance with City of Broken Arrow zoning ordinance and having use development regulations of IO zoning district, except as summarised in the planning commission report.

He stated that the design of the property associated with PUD 289 and BAZ 2025 is designated as Level 6 in the Comprehensive Plan, that IL (Light Industrial) zoning is considered to be in conformance with the comprehensive plan, one and done with the PUD. He remarked that with PUD 289, the applicant has incorporated the following design elements to make the property compatible with the surrounding land uses:

- Limited use permitted on the property
- Increase the width of the landscape edge along the street frontages from 10 feet to 20 feet, in addition to the amount of landscaping required along the street frontage is doubled.
- Amount of landscape being open space is increased from 10 percent to 25 percent per lot
- A berm, at least 42 inches tall, will be provided along the entire length of the parking area within 200 feet of East College Street
- Service, storage, and offsite storage areas required is set back 200 feet from the north and east boundary lines
- Parking lot light poles are limited to 20 feet in height and all wall packs associated with the building will be shielded with light directed downward
- Free-standing signs limited to 10 feet in height and 100 square feet in size
- Project identification size are limited to 25 feet in height and 150 square feet.
- Each development area is allowed two points of access to College Street.

He stated that the Planning Commission met on April 25, 2019 and concurred with Staff and recommended approval by a vote of 5 to 0, of PUD 289 and BAZ 2025, subject to the property being platted and a modification being made to the design statement to limit free-standing signs to 100 square feet. He noted that at this meeting, four people spoke in regard to the zoning request, and that their concerns were primarily regarding the traffic along College Street and how this will impact them.

He remarked that there is also a widening project along College Street and 23rd Street, with the bridge going in across there, from 23rd Street to approximately 300 to 400 feet in, heading west, which will be widened so additional traffic can be accommodated.

He stated that Staff recommends the approval of PUD 289 and BAZ 2025 as recommended by the Planning Commission.

Council Member Johnnie Parks asked about the rest of College Street, besides the 300 to 400 feet, and if the traffic will be routed to the east when it exits the development.

Larry Curtis responded that, because trucks and heavy machinery from the development company will be entering and exiting the area, the quickest and easiest access will be heading east, towards either Old Highway 51 or Highway 51 Broken Arrow Expressway, and that is the direction traffic will take on this project.

Council Member Parks remarked that the area to the west of the development would not be able to handle much heavy traffic. Mr. Curtis agreed and stated that that would be analyzed as the project moves forward.

Vice Mayor Scott Eudey asked if this project takes into account the widening project that is occurring along County Line. Mr. Curtis replied that the widening is one of the reasons why the developers were wanting to come into this area.

Lou Reynolds, with Eller and Detrich, attorney for the developer, stated that they are fully in agreement with Staff, and respectfully asked that the City Council approve this item as recommended by the Planning Commission. He noted that they will be making improvements as a part of this project, such as turn lanes, to soften the impact.

Citizen Ronda C. Jenkins-Thompson at 1526 East College Street Broken Arrow shared that she does not really oppose the development but wanted to voice some concerns regarding traffic. She also noted that the Developer's corporate office will be on site and that with 50 employees, there will be more traffic in addition to the work vehicles.

Larry Curtis responded to the concerns. He stated that in regards to the question of access onto 23rd Street, the PUD does allow for two access points also onto 23rd Street. The concern that is raised there is that there is a flood plan associated with that area, so it will be a little more difficult to develop that to have access, but it is permissible should anyone develop that portion of the tract. He noted that they could have an access onto 23rd Street as long as they met the distance separation requirements.

Mr. Curtis indicated that in regards to the signage, the City's sign code is being updated and will be put before the Council soon. He indicated that the code allows signs to be up to 20 feet, but they are reduced now to 10. He noted that the developer has not moved forward with their site plan yet, but he will bring that to the developer's attention as they move forward with their application.

Vice Mayor Scott Eudey stated that a legitimate concern was raised about traffic and asked if a traffic study had been conducted. Larry Curtis responded that that is something that the Traffic Committee will be watching as development moves forward and they will determine if there is a need for a traffic study. He noted that the traffic volume in regards to industrial and commercial traffic is relatively low right now along this section, but that is also something that they will be watching as development moves forward.

Lou Reynolds noted that the proposed site is an 80-acre tract of land (approximately half a mile of road), and that Area A is a 40-acre tract with a single development. He indicated that for 1320 feet of frontage for 40 acres having two access points is de minimis in the City of Broken Arrow, and stated that the projected commercial traffic during development is negligible for 40 acres. He indicated that there would be an impact but would not be a huge impact.

Ronda C. Jenkins-Thompson stated that the Bus Barn is located in that area. She noted that when she was near a bus making a turn from 15th Street onto College Street, she had to reverse her vehicle because she feared being hit by the bus. She concluded that she just wanted to note that the buses are large vehicles as well.

Mayor Craig Thurmond stated that the area could be made to limit access to large truck traffic, and Larry Curtis responded that that is something that could be brought to the attention of the Streets and Stormwater Director, the City Engineer, and Construction Director.

Vice Mayor Scott Eudey stated that it is not the quantity of traffic that is concerning, but the size of the construction vehicles.

MOTION: A motion was made by Johnnie Parks, seconded by Debra Wimpee.
Move to approve PUD 289 and BAZ 2025 as recommended by the Planning

Commission and Staff

The motion carried by the following vote:

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

D. 19 600 Consideration, discussion, and possible repeal of the policy for nominating individuals to the City of Broken Arrow Planning Commission and Board of Adjustment

City Attorney Trevor Dennis presented that since 2017, the City Council has had a policy that they have been following for the appointment of empty seats for the Board of Adjustment and the Planning Commission. He stated that both boards are appointed in a similar fashion, where each of the Council members can make a recommendation to the Mayor, who then makes a nomination for the appointment. He noted that there has been some interest expressed to change that policy, at least as it applies to the Board of Adjustment. He indicated that there is a state statute that provides that the nominations for the Planning Commission have to be made by the Mayor, and that that precludes any changes to the nominating policy/procedure as it applies to the Planning Commission. He then stated that it does, however, allow the City the flexibility of having nominations by each Council member for each individual award, and the at-large member as openings occur.

City Attorney Trevor Dennis noted that if Council is still interested in pursuing that change for Board of Adjustment, the first step would be to repeal the current policy. He pointed out that the sister item on this is 10B, which is the new ordinance for the Board of Adjustments. He noted that as far as the Planning Commission is concerned, the Council and the City currently has an ordinance in place, Section 2-15, that comports with state statute in terms of the Mayor nominating a person for the Planning Commission subject to approval by the rest of the body.

He summarized that, as such, if Council is interested, the recommendation is to repeal the policy for nominating individuals to the Planning Commission and the Board of Adjustment and in the future, Council can consider item 10D to put in place a new procedure for appointing the Board of Adjustment members.

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

Move to repeal the policy for nominating individuals to the City of Broken Arrow Planning Commission and Board of Adjustment

The motion carried by the following vote:

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

E. 19 605 Consideration, discussion and possible appointment of one representative of the Broken Arrow Planning Commission to the Creek 51 TIF Review Committee, appoint one representative of the Broken Arrow City Council who will serve as chairperson of the Review Committee and possible approval of a Resolution, Resolution No. 1224, declaring the intent to consider approval of a project and creation of a tax increment district under the local development act; directing preparation of a project plan; appointing a review committee; directing the review committee to make findings as to eligibility and financial impact, if any, on taxing jurisdictions within the district; directing the review committee to make a recommendation with respect to the proposed project plan; directing the planning commission to make a recommendation with respect to the proposed project plan; and containing other provisions relating thereto

City Attorney Trevor Dennis presented that this is the first formal action that is before Council to consider about creating a committee to review the TIF, and who will ultimately make a recommendation to this body. He stated that one of the first things they need to do if Council is so inclined in going forward with the Review Committee is to appoint a chairperson who is a member of the Council. He indicated that one of the job obligations as a chairperson is to come up with a list of seven other names for the Committee and they will pick three of those to serve as the at-large citizen members of that body.

City Attorney Trevor Dennis remarked that Council will need to appoint an existing Planning Commission member to the body, and noted those available for consideration are Lee Whelpley, Fred Dorrell, and Mark Jones. He recommended that the Council appoint a representative of the Broken Arrow Planning Commission to the Review Committee, one representative of the Council to serve as a chairperson of the Review Committee, and then approve and authorize execution of Resolution No. 1224 to include such nominations and pass Resolution No. 1224 to start the process for the TIF Review Committee.

Council Member Debra Wimpee asked if the recommended members of the Planning Commission had been spoken to about this Item, and City Attorney Trevor Dennis responded that he had not personally reached out to any of them.

Mayor Craig Thurmond stated that Council can make recommendations and then they can speak to them about their interest.

Vice Mayor Scott Eudey shared some thoughts with regard to the Council position. He noted that the only two members of the Council who have gone through a TIF are Council Member Johnnie Parks and Mayor Craig Thurmond. He suggested that since Council Member Parks has the greatest level of familiarity with what has been done in the past, he would be a great one to serve in that role.

Mayor Thurmond asked Council Member Parks for a recommendation from the Planning Commission, and Council Member Parks recommended Mark Jones.

Council Member Parks abstained from voting on this Item.

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

Move to appoint Mark Jones as the representative from the Broken Arrow Planning Commission to the Review Committee and appoint Johnnie Parks from the Broken Arrow City Council to serve as Chairperson of the Review Committee, and approve and authorize execution of Resolution No. 1224 to include such nominations.

The motion carried by the following vote:

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

F. 19 595 Consideration, discussion and possible ratification of a Lease Agreement between the City of Broken Arrow and Big Sky 40 Corporation for the lease by Big Sky 40 of real property located at 7500 Old Highway 51, Broken Arrow

City Attorney Trevor Dennis presented that as part of the ongoing efforts to improve infrastructure in the City, they have acquired land at 7500 Old Highway 51, which is a restaurant/bar. The owners of the property have requested additional time to find an alternate location for their operations. The City had gone forward with appointing the Commissioners and coming back with an award, which is approximately \$178,000 dollars. He clarified that the City owns the property. In an effort to accommodate the landowners request and preserve the business so they can continue operating within Broken Arrow, the City has entered into a lease agreement with Big Sky 40 Corporation to allow them to stay at the property through July of this year.

City Attorney Trevor Dennis stated that his understanding is that they will have an alternate location selected in June. The lease agreement requires that they pay the City rent over the next three months, approximately \$1,200. He indicated that they also have to be insured and name the City as the additional insured. This would allow the City to go forward with its project but also accommodate the business so that they can relocate and continue operations. He recommends that the City ratify the lease agreement with Big Sky 40 Corporation and authorize its execution.

Council Member Johnnie Parks asked for clarification on whether the tenant had selected an alternate location. City Attorney Trevor Dennis responded that his understanding is they do not. He indicated that the lease is only through July, and then the City will have the opportunity to do a forcible entry and detainer action, which he'd rather not do. He stated the City should try to preserve the business if possible.

Vice Mayor Scott Eudey indicated it is odd for the City to engage in a lease agreement with a restaurant and bar, but thinks the point is that it actually indemnifies and protects the City from liability and is necessitated by that.

City Attorney Trevor Dennis responded that that is one of the concessions that the property owner is willing to allow in order to get the additional time.

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

Move to ratify the lease agreement with Big Sky 40 Corporation and its execution

The motion carried by the following vote:

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

G. 19 598 Consideration, discussion and possible approval of Resolution No. 1216, a Resolution authorizing the City Attorney to enter into a final Journal Entry of Judgment in the case of Broken Arrow Economic Development Authority v. The City of Broken Arrow, et al., Tulsa County District Court Case Number CV 2019 0577, authorizing the foreclosure of a portion of a closed alleyway located within Block Eighteen, Original Town of Broken Arrow

City Attorney Trevor Dennis presented the City had entered into an economic development agreement with Milestone Capital. One of the parts of that project was that it was built over an existing alley. That alley resulted in being on property that was owned by the Broken Arrow Economic Development Authority, and it was necessary to have that alley closed and vacated. It has been closed but has not been vacated as of yet. He noted that in an effort to have it vacated, the district court action of the Broken Arrow Economic Development

Authority vs. City of Broken Arrow was placed on file. City Attorney Trevor Dennis noted Milestone is required to pay for the attorney fees associated with this vacation.

He stated that in order to complete the vacation of the existing alley, the City will have to reduce it to a journal entry of judgment, and that is what is before Council right now. Therefore, he recommends that the City approve Resolution No. 1216 and authorize its execution, allowing the City of Broken Arrow to enter into the journal entry of judgment which will vacate the alley so Milestone can complete its project.

Council Member Johnnie Parks asked if the City will still own the property and lease it to them. City Attorney Trevor Dennis affirmed that, and indicated that it was not going to change anything under the Economic Development Agreement; this simply eliminates the alley where the property is built on.

Vice Mayor Scott Eudey agreed, stating that it is necessary so that there is not an open alley with structures.

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

Move to approve Resolution No. 1216 and authorize its execution.

The motion carried by the following vote:

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

10. Preview Ordinances

- A. 19-577 Consideration, discussion, and possible preview of an Ordinance amending Chapter 26 Emergency Medical Services; adding section 26 11, Establishment of an outside of the city fire subscription program, Section 26 12, Out of the city fire subscription program and fees, Section 26 13, Nonparticipation Election, Section 26 14, Collection of fire subscription program fees, Section 26 15, Persons not covered by the fire subscription program, Section 26 16, insurance provision, subrogation, and assignment, Section 26 17, limitation of obligation of city, repealing all ordinances to the contrary; and declaring an emergency**

Fire Chief Jeremy Moore presented this item to the Council. He stated that the Broken Arrow Fire Department responds and provides fire and EMS service to not just the 50 square miles considered the city limits, but to about 100 square miles that is contained within the Broken Arrow fence line. He noted that the manual of fees has always contained provisions for recovering expenses incurred when responding to those areas outside city limits, and that fee currently is \$700 per hour per truck with a one hour minimum.

Chief Moore indicated that the Broken Arrow Fire Department responds to approximately 500 calls outside the city limits and inside the fence line every year. To recover expenses but not be a burden on a customer, they have put together a fire subscription program similar to the existing LifeRide program for medical emergencies. He explained that this subscription program would be available only for those outside the city limits. The cost would be \$90 per year and they would not be billed for any out-of-pocket expenses. He further noted that if residents outside the city limits participate in both LifeRide and the subscription program, they would pay a discounted rate of \$150 per year.

Chief Moore explained that there are approximately 4400 houses in that area and of those, about 1100 participate in LifeRide. He hopes they will also participate in the subscription program. He noted that with this subscription program, the City would realize an income of approximate \$70,00. He indicated they would be sending direct mailers to every one of those customers to advertise the program.

Council Member Debra Wimpee mentioned she thinks it is a good program and noted that she has many friends in Ward 1, which backs up to that line, who would be more than happy to pay for the subscription.

Council Member Johnnie Parks mentioned those that live outside the City pay city sales taxes when they purchase within the City, but they do not pay ad valorem tax. Chief Moore agreed and explained that through the 2018 bond issue, they shifted a significant portion of their capital expenditures onto the ad valorem tax. Just for the fire department alone, he believes it was \$16.5 million that will come out over the next 10 years for fire stations and fire trucks.

Council Member Johnnie Parks then stated that the citizens of Broken Arrow pay the ad valorem tax no matter where the station is at. He thinks it would be additional insurance for those who live outside city limits to pay the subscription price.

Chief Moore then stated that they have hired a collections agency to aggressively collect for those calls outside the city limits, which triggered complaints, but they are handling them.

City Attorney Trevor Dennis stated it is in the Council's interest to move to preview the

ordinance and then set it for adoption.

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

Move to preview the ordinance and set it for adoption

The motion carried by the following vote:

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

B. 19 601 Consideration, discussion, and possible preview of an ordinance amending the Broken Arrow Code of Ordinances, Appendix A Zoning Ordinance, Chapter 7, Review and Decision Making Entities, Section 7.4, Board of Adjustment, specifically clarifying the nomination process for Board Members; repealing all ordinances to the contrary; and declaring an emergency

City Attorney Trevor Dennis presented this item to the Council. He stated this Item will change the ordinance for the appointment of Board of Adjustment members as they come open pursuant to the current policy in the ordinance.

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

Move to preview the ordinance and set it for adoption

The motion carried by the following vote:

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

C. 19 604 Consideration, discussion and possible approval of an ordinance amending Chapter 10, Fire Prevention and Protection, Article I, In General, Section 10.3, Manufacture, Sale, Use, Etc., of fireworks, of The Broken Arrow Code Of Ordinances; repealing all ordinances to the contrary; and declaring an emergency

City Attorney Trevor Dennis presented that the current ordinance for fireworks permits allows the permits to be sold from April 1st through July 3rd, and that the dates of the firework use is still July 3 and 4. He stated that the ordinance as it currently reads allows the permits to be purchased from April 1 through the July 3rd. The revised ordinance clarifies that to make the purchase date from June 15 through July 3, and makes it easier for Development Services when they are issuing the permits to handle the requests as they come in. The permits would not be sold in April, but in June, closer to the date. He noted that that is the only revision to this ordinance, and recommends to preview the ordinance and set it for adoption.

Council Member Debra Wimpee noted that this might help with premature fireworks going off before the holiday.

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

Move to preview the ordinance and set it for adoption

The motion carried by the following vote:

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

City Attorney Trevor Dennis stated that Items 10D through 10P all relate to the City Manager's recommendation and initiative to change the name of the Development Services Department to more accurately reflect the actual services that they provide for the community. The department currently is responsible for the administration of long-range planning, building and land use permitting, business licensing, and code enforcement. He stated that he has found that just having a name of Development Services does not completely capture and communicate to the community the range of services that are actually offered by this department. In addition, several of the communities in areas similar to our size have revised the names of their Development Services to include Community Development in the names of their departments.

City Attorney Trevor Dennis indicated that all the preview ordinances before the Council designed to accomplish the name change of three different names. The first would be changing the name of Development Services to the Department of Community Development. The second would be revising the Inspections Division under the department to Neighborhood Engagement Division. The third would be changing the name of the One-Stop Division to the Community Permitting Division.

He noted that there are approximately 43 separate ordinances throughout the municipal code that refers to those three different departments, so the preview ordinances basically do a redline strikeout change of each of those names from the old name to the new name. He stated he believes the City Manager and Staff find that the new department names align with Council administration goals of having a customer-focused department that facilitates investment in the City. So as a result of that, he requested that the Council previews the ordinances identified in items 10D through 10P, and sets them for adoption.

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

Move to preview Items 10D through 10P and set them for adoption

The motion carried by the following vote:

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

- D. 19-628** Consideration, discussion, and possible preview of an Ordinance amending the Broken Arrow Code of Ordinances, Chapter 6, Buildings and Building Regulations, Article I, General, Section 6 2, Building Inspection Division of Department Services Department and Building Inspector Generally, Section 6 6, Street Addresses of Buildings, 6 8, Toilet facilities, Section 6 22 Local Registration of General Contractors, specifically changing the name of Development Services Department to the Department of Community Development and Inspection Division to Neighborhood Engagement, repealing all ordinances to the contrary; and declaring an emergency
- E. 19-630** Consideration, discussion, and possible preview of an Ordinance amending the Broken Arrow Code of Ordinances, Chapter 5, Animals, Article 1, In General, Section 5 6, Dog/Cat License Fee, Registration And Tag Generally, specifically changing the name of One Stop Center to Community Permitting Division and repealing all ordinances to the contrary; and declaring an emergency
- F. 19-624** Consideration, discussion, and possible preview of an Ordinance amending the Broken Arrow Code of Ordinances Chapter 12, Garbage and other Refuse, Article I, In General, Section 12 3, Right to Engage in Business of Collecting, Hauling, Etc.; specifically changing the name of Development Services Department to the Department of Community Development, repealing all ordinances to the contrary; and declaring an emergency
- G. 19-625** Consideration, discussion, and possible preview of an Ordinance amending the Broken Arrow Code of Ordinances Chapter 15, Nuisances, Article I, In General, Section 15 1, Nuisance Code, Section 15 7, Emergency Abatement, Section 15 45, Amendments, specifically changing the name of Development Services Department to the Department of Community Development, repealing all ordinances to the contrary; and declaring an emergency
- H. 19-626** Consideration, discussion, and possible preview of an Ordinance amending the Broken Arrow Code of Ordinances Article VI, Water Service Charges and Rates, Chapter 24, Water, Sewer and Sewage Disposal, Section 24.602, Service Tap Charge; specifically changing the name of Development Services Department to the Department of Community Development, repealing all ordinances to the contrary; and declaring an emergency
- I. 19-627** Consideration, discussion, and possible preview of an Ordinance amending the Broken Arrow Code of Ordinances, Appendix A Zoning Ordinance, Chapter 6, Review and Approval Procedures, Section 6.3, Amendments, Section 6.4, Planned Units Development, Section 6.6, Site Plan Review, Section 6.11, Building Permits, specifically changing the name of Development Services Department to the Department of Community Development, repealing all ordinances to the contrary; and declaring an emergency
- J. 19-618** Consideration, discussion, and possible preview of an Ordinance amending the Broken Arrow Code of Ordinances, Appendix A Zoning Ordinance, Chapter 3, Use Regulations, Section 3.4, Temporary Uses Of Structures; specifically changing the name of Development Services Department to the Department of Community Development, repealing all ordinances to the contrary; and declaring an emergency
- K. 19-620** Consideration, discussion, and possible preview of an Ordinance amending the Broken Arrow Code of Ordinances, Appendix A Zoning Ordinance, Chapter 5, Development Standards, Section 5.9, Telecommunication Facilities; specifically changing the name of Development Services Department to the Department of Community Development, repealing all ordinances to the contrary; and declaring an emergency
- L. 19-621** Consideration, discussion, and possible preview of an Ordinance amending the Broken Arrow Code of Ordinances Chapter 7, Business Regulations and Licenses, Article I, In General, Section 7 12, Mobile Food Vendors, Section 7 120, Applications; Article VI Massage Establishments, Section 7 126, Revocation and Suspension, Article XIII Moving of Buildings or Oversized Loads, Section 7 301, Oversized load mover's license, Section 7 320, Oversized load authorization to move, specifically changing the name of Development Services Department to the Department of Community Development, repealing all ordinances to the contrary; and declaring an emergency
- M. 19-622** Consideration, discussion, and possible preview of an Ordinance amending the Broken Arrow Code of Ordinances Chapter 8, Cemeteries, Article II, Park Grove Cemetery,

Section 8 22, Charges For Sale Of Lots And Spaces and For Services; specifically changing the name of Development Services Department to the Department of Community Development, repealing all ordinances to the contrary; and declaring an emergency

- N. 19-623 **Consideration, discussion, and possible preview of an Ordinance amending the Broken Arrow Code of Ordinances Chapter 10, Fire Prevention And Protection, Article Iv, Explosives, Section 10 76, Discharge Of Class 2 Explosives; Blasting Operations, Section 10 78.1, Definitions, Section 10 78.3, Blasting Permits; specifically changing the name of Development Services Department to the Department of Community Development, repealing all ordinances to the contrary; and declaring an emergency**
- O. 19-616 **Consideration, discussion, and possible preview of an Ordinance amending the Broken Arrow Code of Ordinances Chapter 2, Administration, Article IX Employee Rules and Regulations, Section 2 165, Department Director Evaluation, Section 2 200, Established; Appointment Duties; specifically changing the name of Development Services Department to the Department of Community Development, repealing all ordinances to the contrary; and declaring an emergency**
- P. 19-615 **Consideration, discussion, and possible preview of an Ordinance amending the Broken Arrow Code of Ordinances, Appendix A Zoning Ordinance, Chapter 3, Use Regulations, Section 3.4, Temporary Uses Of Structures; specifically changing the name of Development Services Department to the Department of Community Development, repealing all ordinances to the contrary; and declaring an emergency**

11. Ordinances

- A. 19-448 **Consideration, discussion, and possible adoption of Ordinance No. 3567, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ 1993, generally located one quarter mile north of Jasper Street (131st Street), west of Aspen Avenue (145th East Avenue), granting a RS 3 zoning classification be placed upon the tract along with PUD 269, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency**

City Attorney Trevor Dennis presented this item and asked for the Council's consideration of codification of a zoning change for BAZ 1993, to change zoning on 9.11 acres located approximately at the intersection of 131st Street and 145th East Avenue from A1 (Agricultural 1) to RS-3. He stated that the plat for this project, the Reserve at Aspen Ridge, has already been recorded in Tulsa County. He recommends the Council adopt Ordinance No. 3567 and approve the emergency clause.

Council Member Johnnie Parks stated that Council has already looked at this item, voted on it, and approved it; it is being put into the code.

City Attorney Trevor Dennis agreed.

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

Move to adopt Ordinance No. 3567

The motion carried by the following vote:

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

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

Move for the emergency clause

The motion carried by the following vote:

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

- B. 19-570 **Consideration, discussion, and possible adoption of Ordinance No. 3569, an ordinance closing a portion of a utility easement from Linda Philpott, on property located one quarter mile south of Florence Street (111th Street), one quarter mile west of Elm Place (161st East Avenue), Tulsa County, State of Oklahoma, (Section 34, T18N, R14E); repealing all ordinances to the contrary; and declaring an emergency (Windsor Estates)**
City Attorney Trevor Dennis stated that citizen Linda Philpott purchased her home in 1993. She attempted to sell her house, so she had a survey on her property and it was determined that there was a utility easement that is 0.01 acres (approximately 2.25 feet) that she would like to have closed so that she can sell the property. The utility companies have reviewed it, and AEP, Windstream, O&G, and Cox have no objection to closing the easement and there is no public need for this easement where it is. The preview ordinance was approved by Council on May 7, 2019. This is for adoption of the ordinance. He recommended the Council to adopt Ordinance No. 3569 and approve the emergency clause.

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

Move to adopt Ordinance No. 3569

The motion carried by the following vote:

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

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

Move for the emergency clause

The motion carried by the following vote:

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

12. Remarks and Inquiries by Governing Body Members

Mayor Thurmond commended the FOP and Staff on attaining a bargaining agreement. He noted that he could not think of a time when an agreement was reached so quickly.

Vice Mayor Scott Eudey commended and thanked individuals who late last night and early this morning checked for downed trees and flooded streets, and stated the City is blessed to have willing people to give up their time and comfort to make sure we are safe.

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

There were no remarks or updates by the City manager.

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

Move for a brief recess to meet for BAEDA and BAMA

The motion carried by the following vote:

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

At approximately 7:41 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.

14. Executive Session

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

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

The motion carried by the following vote:

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

14. Executive Session

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

Litigation, including potential resolution, of a matter involving the litigation case of City of Broken Arrow v. CWP, Inc., et al., Wagoner County District Court Case Number CV 2018 114, 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

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

Move to find that the Executive Session was necessary to process the pending litigation in the public interest

The motion carried by the following vote:

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

At approximately 7:53 p.m. Mayor Thurmond reconvened the regular session of the City Council Meeting.

15. Adjournment

The meeting adjourned at approximately 7:55 p.m.

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

Move to adjourn

The motion carried by the following vote:

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

Mayor

City Clerk