



City of Broken Arrow

Minutes City Council Meeting

City Hall
220 S 1st Street
Broken Arrow OK
74012

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

Tuesday, May 21, 2024

Time 6:30 p.m.

Council Chambers

1. Call to Order

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

2. Invocation

Pastor Scott Moore performed the invocation.

3. Roll Call

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

4. Pledge of Allegiance to the Flag

Mayor Wimpee led the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

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

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

Move to approve the Consent Agenda

The motion carried by the following vote:

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

- A. 24-456 Acknowledgement of out-of-state travel by City Council Members
- B. 24-76 Approval of the City Council Meeting Minutes of May 7, 2024
- C. 24-656 Acceptance Planning Commission meeting minutes of March 14, 2024
- D. 24-657 Acceptance Planning Commission meeting minutes of March 28, 2024
- E. 24-658 Acceptance Planning Commission meeting minutes of April 11, 2024
- F. 24-660 Acceptance Planning Commission meeting minutes of April 25, 2024
- G. 24-679 Approval of and authorization to submit a letter to Sunset at Broken Arrow LLC committing to additional parking spaces
- H. 24-441 Approval of and authorization to execute Agreement for Professional Consultant Services with BKL, Inc. for providing design services on the 111st Street and 37th Street Intersection project (Project Number ST24280)
- I. 24-659 Approval of and authorization to execute a lease agreement for Copier Services with JD Young
- J. 24-667 Notification of City Manager's and Assistant City Manager's execution of Professional Consultant Agreements and Amendments to an Agreement, as well as public Construction Contracts not subject to the Competitive Bid Act, with a Contract value of \$50,000 or less
- K. 24-653 Notification of Quarterly Enterprise Resource Planning (ERP) Systems Status Report for City Council
- L. 24-654 Approval of and authorization to purchase the Commvault Enterprise Solution through SHI, pursuant to the Oklahoma State Master Agreement
- M. 24-685 Award the most advantageous bid to Professional Turf Products to purchase one (1) Used 2018 Toro GM4500 Rotary Mower
- N. 24-670 Approval of and authorization to execute Amendment Number 1 to Professional Consultant Agreement with Kimley-Horn and Associates, Inc. for Residential Streets Concrete Panel Replacement (Project Number 2352120)
- O. 24-506 Approval of and authorization to execute Resolution No. 1572, a Resolution authorizing acceptance of a General Warranty Deed for Parcel 8.0, which consists of 0.0543 acres of permanent Right-of-Way for the Broken Arrow Gateway Signs, located at the Southeast corner of Olive Avenue and Albany Street, Broken Arrow, Oklahoma in the Northwest Quarter of Section 4, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from AG Equipment Company for the Broken Arrow Gateway Signs, Parcel 8.0. (Project No. 201710)
- P. 24-498 Approval of and authorization to execute Resolution No. 1577, a Resolution declaring the eligibility of the City of Broken Arrow to submit an application to the Oklahoma

- Department of Transportation for use of Transportation Alternatives Program Funds set forth by the Infrastructure Investment and Jobs Act (IIJA) for the New Orleans Street Shared-Use Path Project in Broken Arrow and authorizing the Mayor to sign the application
- Q. 24-674 Ratification, approval of and authorization to execute Resolution No. 1580, a Resolution of the Broken Arrow City Council ratifying, approving and authorizing the filing and execution of a Plat and Deed Of Dedication involving land described as Lot One, Block One, conditional plat of Sunset Amphitheatre, a part of the NW/4 of Section 20, Township 18 North, Range 15 East of the Indian Base and Meridian, Broken Arrow, OK and approve and authorize extension of closing date for the property transaction to on or before May 24, 2024
- R. 24-662 Approval of BAZ-001411-2024 (Rezoning), Luth Residence, approximately 9.63 acres, A-1 (Agricultural) to RS-4 (Single Family Residential) located one quarter mile east of South Lynn Lane Road (South 177th East Avenue), and south of West Florence Street (East 111th Street South)
- S. 24-649 Acceptance of Drainage Easement and Temporary Construction Easement from Leonard E. and Deanna S. Villalon on property located at 46 Cedar Ridge Road, Broken Arrow, Oklahoma 74012, located in the Northeast Quarter of the Section 30, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma. Parcel 2.0, 2A, for Cedar Ridge Drainage Improvements. Project No. SW22050
- T. 24-566 Acceptance of a Mutual Access Easement from The Board of Education of Independent School District No. 3, Tulsa County, also known as Broken Arrow Public Schools, located at 4300 East Gary Street, Broken Arrow, Oklahoma, 74014, located in the Northwest Quarter of Section 20, Township 18 North, Range 15 East, Wagoner County, State of Oklahoma. This easement is for the East Side Industrial Access Road, Project No. ST23230
- U. 24-499 Acceptance of Temporary Construction Easement for Tract 5, from Wade Revocable Trust, on property located at 6529 South 209th East Avenue, Broken Arrow, Oklahoma in the Northwest Quarter of Section 5, Township 18 North, Range 15 East, Wagoner County, State of Oklahoma for the 37th Street, Albany to Kenosha Roadway Improvements, Tract 5 (Project No. ST1413A)
- V. 24-640 Acceptance of Temporary Construction Easement for Tract 6, from Jack Helscel, on property located at 6131 South 209th East Avenue, Broken Arrow, Oklahoma in the Northwest Quarter of Section 5, Township 18 North, Range 15 East, Wagoner County, State of Oklahoma for the 37th Street, Albany to Kenosha Roadway Improvements, Tract 6. (Project No. ST1413A)
- W. 24-641 Acceptance of a Utility Easement consisting of 0.0259 acres from Lakeland Real Estate, LLC, on property located at 119 East Canton Street, Broken Arrow, Oklahoma, located in part of the Northwest Quarter of Section 23, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma for the Broken Arrow Creek Trail 8" Waterline Improvements, (Project No. WL23040)
- X. 24-643 Acceptance of Utility Easement consisting of 0.0093 acres from Daniel G. Jara on property located at 3606 South 201st East Avenue, Broken Arrow, Oklahoma in the Southeast Quarter of Section 19, Township 19 North, Range 15 East, Wagoner County, State of Oklahoma for Green Country Sewer Relocation, Parcel 1.0
- Y. 24-644 Acceptance of Utility Easement from Sood Realty, LLC, on property located at 20105 East 36th Place, Broken Arrow, Oklahoma in the Southeast Quarter of Section 19, Township 19 North, Range 15 East, Wagoner County, State of Oklahoma for Green Country Sewer Relocation, Parcel 2.0
- Z. 24-645 Acceptance of Utility Easement from Hortencia Portillo, on property located at 20115 East 36th Place, Broken Arrow, Oklahoma in the Southeast Quarter of Section 19, Township 19 North, Range 15 East, Wagoner County, State of Oklahoma for Green Country Sewer Relocation, Parcel 3.0
- AA. 24-650 Ratification of the Claims List Check Register Dated May 13, 2024

6. Consideration of Items Removed from Consent Agenda

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

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

There were no public hearings, presentations, recognitions, or awards.

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

Mayor Wimpee indicated no Citizens signed up to speak.

9. General Council Business

- A. 24-661 Consideration, discussion, and possible action regarding BAZ-001334-2024 (Rezoning) and SP-001335-2024 (Specific Use Permit), Floral Haven Expansion, 27 acres, A-1 (Agriculture) and R-1 (Single Family Residential) to A-1 (Agriculture)/SP-001335-2024, north of West Kenosha Street (East 71st Street South), and one quarter mile west of South Olive Avenue (South 129th East Avenue)
- Mayor Wimpee stated it was her understanding this Item was to be tabled.

City Attorney Trevor Dennis concurred.

City Manager Spurgeon stated City Staff had a conversation last week with regard to trying to acquire the necessary right-of-way to complete the road as originally designed; a counteroffer for the right-of-way was received and conversation would continue.

Council Member Justin Green noted the request to table this Item came from Floral Haven, not the City of Broken Arrow.

Mayor Wimpee concurred.

B. 24-655 Consideration, discussion, and possible action regarding COMP-001404-2024 (Comprehensive Plan Change), Villas at Battle Creek, 23 acres, Levels 2, 4, and 6 to Levels 3 and 4, generally located south and east of the southeast corner of Omaha Street (51st Street) and Aspen Avenue (145th East Avenue)

Planning and Development Manager Amanda Yamaguchi reported COMP-001404-2024 was a request to change the Comprehensive Plan designation from Levels 2, 4, and 6 to Levels 3 and 4 on approximately 11.49 acres generally located south and east of the southeast corner of Omaha Street (51st Street) and Aspen Avenue (145th East Avenue); the property was presently unplatte and undeveloped. She stated the applicant was interested in developing this property for commercial and single-family uses. She stated pending approval of this amendment to the comprehensive plan, the applicant intended to submit a rezoning request to change the zoning to Commercial General and Single-Family Residential. She stated at this time, the applicant had not provided a draft major PUD amendment for this development. She stated amending the Comprehensive Plan to Levels 3 and 4 could potentially support a future rezoning to any zoning district identified as possible or allowed within the Comprehensive Plan level. She noted Table 4-1: Land Use Intensity System Zoning District Table, of the Comprehensive Plan identified these potential districts. She stated on March 26, 2024, Nathan Cross, Attorney for BC Land Holdings Company sent an informational letter to surrounding residents with information pertaining to this upcoming application for a Comprehensive Plan amendment. She reported this item was heard by Planning Commission on April 25, 2024, and was approved with a 5-0 vote per Staff recommendation. She indicated Staff recommended approving COMP-001404-2024, subject to the property being platted.

Vice Mayor Gillespie stated she felt this had come before City Council a number of times.

Ms. Yamaguchi agreed noting the last application to come before City Council for this property was for multifamily zoning; the applicant indicated they intended to go for single family zoning through a separate application.

Mayor Wimpee asked about infrastructure improvements in this area.

City Manager Spurgeon responded the City received a grant from the Federal Government, and there were conversations between Tulsa County, the City of Tulsa, and Broken Arrow specifically with regard to the intersection. He indicated there would likely be improvements to the intersection before there was any widening, if the voters approved it. He stated the road from Aspen to Elm Place was a road which would be included in the 2026 GO Bond package; therefore, it would 2029 or 2030 before the widening went to construction.

Mayor Wimpee noted the reason the applications for this property were denied previously was the traffic was terrible at this intersection.

Vice Mayor Gillespie asked, if the applicant wished to do single family development, why was the applicant requesting Level 3.

Ms. Yamaguchi explained the majority of the property was Level 3 and the application would bring the property into compliance. She noted Level 3 did permit single family residential.

Vice Mayor Gillespie asked about the previous application.

Ms. Yamaguchi responded she believed it was for townhomes along 51st, apartments in the back and then commercial on the front. She stated the previous application also included a large section of the property which was not included in this application.

Vice Mayor Gillespie said she did not understand why the applicant was requesting Level 3 if the applicant did not intend to build multifamily; why not request Level 2.

Council Member Parks stated he would not be in favor of any multifamily in this location.

Mr. Nathan Cross, the applicant, noted this was the third public hearing for this property, but

the last two public hearings were for one project; this was only the second application for this property. He stated the original plan was multifamily and it was dramatically different than today's plan. He displayed and discussed a copy of the previous PUD which included multifamily, as well as commercial across the front. He noted the commercial remained in today's plan, the major difference was a big rectangle of land was no longer included in the PUD (this land was sold to the church); it replaced Level 6 with retail and restaurant uses and put Level 3 behind the commercial. He stated in light of the previously proposed PUD, and the concerns, a large amount of time was spent with City Staff to determine what would make more sense for this area. He displayed and discussed the developer's lot plan. He stated the proposal was to approve this application with the proposed lot plan. He noted the lot plan had 32, small lot, single family residential, for sale homes. He indicated the challenge with this site was the property behind the commercial was too deep to develop entirely as commercial. He stated the developer was also primarily a home builder. He stated this plan had a significant reduction in units with no multifamily. He indicated these were single family homes, not apartments, and there was no intention to develop multifamily.

Mayor Wimpee noted with Level 3 and Level 4 it was possible to develop multifamily.

Mr. Cross stated he understood this, but this was why he was presenting the lot plan. He stated Capital Homes, the developer, was more single family home oriented than multifamily; Capital Homes did commercial development as well but preferred to build single family homes. He said these homes would be retirement community type homes with smaller floor plans for downsizing. He noted these smaller homes would create a nice buffer between the commercial and the golf course and residential. He stated the Level 6 area on the backside was no longer a part of the development as it was owned by the church. He stated this stage of the process was the Comprehensive Plan change consideration, but he wanted City Council to see the lot plan because this was what the developer planned to follow, and he could be held accountable if the plan changed.

Vice Mayor Gillespie stated Level 2 single family would enable the developer to build every possible type of single family home. She asked why the developer was requesting Level 3.

Mr. Cross indicated he was not part of the discussion and was unsure why Level 3 was chosen.

Vice Mayor Gillespie noted there was an area, Villages of Birchwood, which was considered RS-4 at this time, but when it was zoned, it was residential multifamily because the homes were really tight, but definitely were not multifamily. She asked why the developer was asking for Level 3.

Ms. Yamaguchi stated the previous application was for Level 3 and Level 3 still supported what the developer wanted to do. She said Staff did not have any issues if City Council wanted the applicant to go to Level 2. She explained both levels allowed what the developer wanted to do with the property.

Vice Mayor Gillespie noted Level 2 even allowed for possible residential duplex.

Mr. Cross stated to his understanding, the reason there was no PUD was this property was to be rezoned under the new Zoning Code. He stated there were tools in the new Code which would allow mixed use zoning without necessarily doing a PUD, and he thought this was where the Comprehensive Plan change request was coming from, but he was not certain. He stated again, the lot plan he displayed was the plan, and if not, he understood he would be held accountable next time he came before City Council.

Council Member Parks noted City Council had a final say on the development regardless of whether this was Level 2 or Level 3, but he felt the plan looked like Level 3.

Vice Mayor Gillespie asked how it looked like Level 3.

Ms. Yamaguchi explained the way the Comprehensive Plan was set up, this could be Level 2 or Level 3 per the Code. She explained there were certain requirements to meet single family residential, and these were met within the Comprehensive Plan.

Council Member Ford asked if anyone spoke for or against this at the Planning Commission Meeting.

Ms. Yamaguchi responded in the affirmative; one resident spoke representing the HOAs in the Battle Creek area who were in support as long as the lot plan presented by Mr. Cross was developed but would be opposed if multifamily was developed. She stated another resident spoke who was opposed to the development as a whole.

Vice Mayor Gillespie stated she was not against what Mr. Cross presented as the lot plan, she

just felt it was strange that Level 3 was being requested when with Level 2 the proposed plan was allowed, but it was only “possible” with Level 3.

Ms. Yamaguchi asked if Mr. Cross was opposed to changing the application to Level 2.

Mr. Cross responded he was unsure if his client would be opposed, but he did not have the authority to change the application. He noted City Council always had the ability to deny the rezoning request.

Vice Mayor Gillespie stated a Comprehensive Plan was a big deal.

Ms. Yamaguchi noted Staff also had a condition that this be done subject to platting, so until the rezoning was approved, and the platting was completed, the Comprehensive Plan would not officially change.

Mr. Cross stated when the Comprehensive Plan Amendment came through the last time, the Comprehensive Plan Amendment was approved but the PUD failed, and the Comprehensive Plan was unwound.

Citizen Richard Umstead stated he appreciated the City Council’s discussion about what the actual plan represented. He noted his neighbors in the Battle Creek area shared this same concern regarding what the ultimate design might be. He indicated he did not get notification of the first meeting. He indicated he was in touch with the HOA President who also did not get notification. He stated this area was changed; there was now a plan to increase the intersection in general, which was needed, but this would increase the flow of traffic on 51st Street which would create even more difficulty for those residents in the Battle Creek area trying to exit the development. He discussed the traffic issues in the area. He stated he understood there was a plan to widen the road on either side of this property, but not in front of this property, which would cause significant difficulty for the local residents. He stated in general he was not opposed to this plan as presented but was concerned about the timing and the increased traffic difficulties which would arise. He said he and his neighbors would not support this development until there was a firm plan in place to improve traffic.

Vice Mayor Gillespie noted she never understood that when she voted to approve a Comprehensive Plan change it did not immediately go into effect.

Mr. Cross stated at the Planning Commission meeting he met and spoke with Mr. Ron Grattopp, the individual who represented the HOAs in the Battle Creek area who were in favor of this project so long as it was as presented with the lot plan. He stated the Battle Creek HOAs welcomed the commercial development, the smaller home size development, and the fact that there was no multifamily.

Mayor Wimpee asked how many homes would be developed.

Mr. Cross responded 32 homes would be developed.

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

Move to approve COMP-001404-2024 (Comprehensive Plan Change), Villas at Battle Creek, 23 acres, Levels 2, 4, and 6 to Levels 3 and 4, generally located south and east of the southeast corner of Omaha Street (51st Street) and Aspen Avenue (145th East Avenue)

The motion carried by the following vote:

Aye: 4 - Justin Green, Lisa Ford, Johnnie Parks, Debra Wimpee
Nay: 1 - Christi Gillespie

C. 24-539 Consideration, discussion and possible approval of and authorization to accept the Guaranteed Maximum Price (GMP) from Crossland Heavy Contractors Inc. for the construction of for the Events Park Infrastructure Project (Project No. 2417210)
Engineering and Construction Director Charlie Bright reported on October 3, 2023, BAEDA approved an Economic Development Agreement with Sunset at Broken Arrow, LLC for the construction of a 12,500 seat outdoor Amphitheatre located near Events Park. He stated as part of that Agreement, the City of Broken Arrow committed to providing surrounding infrastructure for the Amphitheatre. He stated in April, 2024 City Council approved an agreement with Crossland Heavy Contractors Inc. for Construction Management At-Risk Pre-Construction Services for \$73,915 dollars. He stated after this was approved the City received bids for most of the project through the subcontractors with Crossland Heavy who put together a guaranteed maximum price to do all the work scoped so far, which included almost all the improvements inside the park itself, and some waterline improvements down at County Line. He stated the guaranteed maximum price (GMP) for all of the improvements was \$17,729,636.02 dollars. He stated the GMP package included \$511,920.58 in contingency.

Mayor Wimpee asked if this included the pigtail.

Mr. Bright responded in the negative. He explained there were a few improvements, because of how the project unfolded, still in the design phase, such as the pigtail. He noted the improvements for 101st Street were also still being designed. He stated at some point he would come back with an increase to the GMP which would include these items.

Council Member Parks stated Mr. Bright was doing an excellent job in his new position.

City Manager Spurgeon stated he felt a really good contractor was selected who had tremendous experience and he highly recommended approval of this contract.

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

Move to approve and authorize acceptance of the Guaranteed Maximum Price (GMP) from Crossland Heavy Contractors Inc. for the construction of for the Events Park Infrastructure Project (Project No. 2417210)

The motion carried by the following vote:

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

Mr. Bright noted, now that this was passed, there would be a whole lot of workers in the area in the next couple of weeks and residents would begin to see progress.

D. 24-673 Consideration, discussion, and possible approval of and authorization to execute a Professional Consultant Agreement with GH2 Architects, LLC. for the design of a New Broken Arrow North Fire Station (Project No. 2435170)

Mr. Bright reported this project was approved as part of the 2018 General Obligation Bond on the unnamed project list. He stated the City worked its way through pretty much all the other named projects in the public safety sector and there were funds still available. He stated there was \$5.5 million dollars in unnamed money; the City sold the design portion of the project last year. He stated this would be the brand new Fire Station 8, located by the existing training facility. He indicated a unanimous decision was made to award the project to GH2, the consultant who designed the previous two Fire Stations for Broken Arrow.

City Manager Spurgeon stated the Fire Chief and himself worked through a few things to ensure a good plan was developed, and he believed the City was moving in the right direction. He stated he appreciated GH2's patience during this process. He asked for City Council approval.

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

Move to approve and authorize execution of a Professional Consultant Agreement with GH2 Architects, LLC. for the design of a New Broken Arrow North Fire Station (Project No. 2435170)

The motion carried by the following vote:

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

E. 24-682 Consideration, discussion and possible approval of Resolution No. 1582, a Resolution approving the incurrence of indebtedness by the Broken Arrow Economic Development Authority (the "Authority") issuing its Promissory Note(s), Series 2024 in one or more series or subseries (collectively, the "Notes"); providing that the organizational document creating the Authority is subject to the provisions of the Indenture authorizing the issuance of said Notes; waiving competitive bidding with respect to the sale of said Notes and approving the proceedings of the Authority pertaining to the sale of said Notes; approving and authorizing execution of an Agreement of Support; and containing other provisions relating thereto

Finance Director Cindy Arnold indicated this Item should be considered after the BAEDA meeting.

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

Move to continue this Item until after the BAEDA Meeting

The motion carried by the following vote:

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

Following BAEDA Item 9E was revisited and considered by City Council.

Finance Director Arnold stated Staff recommended approval of Resolution No. 1582.

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

Move to approve Resolution No. 1582, a Resolution approving the incurrence of indebtedness by the Broken Arrow Economic Development Authority (the "Authority") issuing its Promissory Note(s), Series 2024 in one or more series or subseries (collectively, the "Notes"); providing that the organizational document creating the Authority is subject to the provisions of the Indenture authorizing the issuance of said

Notes; waiving competitive bidding with respect to the sale of said Notes and approving the proceedings of the Authority pertaining to the sale of said Notes; approve and authorize execution of an Agreement of Support; and containing other provisions relating thereto

The motion carried by the following vote:

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

F. 24-684 Consideration, discussion, and possible direction regarding Broken Arrow Code of Ordinances, Chapter 10 Fire Prevention and Protection, Article I - In General; Section 10-3 - Manufacture, sale, use, etc. of fireworks, including revising the fireworks permit fee

Vice Mayor Gillespie reported she saw there was discussion beginning about fireworks on social media and she wished to start talking about this subject now.

Community Development Director Rocky Henkel explained the fireworks permitting process. He stated a citizen would come in or go online and apply for a permit for fireworks, the permit would be issued, the City would collect the fee, and the permit would go into the GIS database, so if a police officer were called out to a certain area for a complaint, the GIS database would reflect whether an address had a permit. He stated the permit was \$25 dollars.

Council Member Justin Green noted when he applied for his fireworks permit online, the name of the previous homeowner came up, but he was told the permit was attached to the address and the name of the individual who owned the property did not matter. He asked if this was the case. He asked if this should be corrected, especially with the GIS system tracking permits. He asked if he could get into trouble if his name was not on the permit.

Mr. Henkel noted this was the first time he heard of this issue, and he was unsure if Scott Carr from IT was aware either, but he and Mr. Carr would look into the situation.

City Manager Spurgeon stated there were only two days fireworks could be discharged, and this was July 3rd and July 4th, and there were specific times the fireworks were allowed to be discharged as well.

Vice Mayor Gillespie stated she felt she should not need a permit to discharge fireworks from her yard. She stated she did not feel fireworks regulations could realistically be enforced. She stated a permit requiring certain safety protocols was logical, but charging a fee was not fair. She stated the ballot did not ask whether the residents wanted to pay a fee for fireworks, it asked if the citizens wanted to discharge fireworks with a permit, and the citizens voted yes. She stated she believed residents would have approved fireworks without a permit if that had been an option on the ballot. She suggested requiring a one-time permit for fireworks, and grandfathering in those who already had obtained a permit for fireworks. She said the GIS system creeped her out. She stated the fine for discharging fireworks without a permit was too high as well at around \$250 dollars. She stated she would prefer not to have a permit requirement at all.

Mayor Wimpee stated there had been discussion of getting rid of the permit fee and she was not opposed to eliminating the fee for the permit. She noted Broken Arrow did not allow fireworks to be sold within the city limits. She suggested perhaps allowing fireworks to be sold in the City of Broken Arrow and then the City would benefit from the sales tax revenue. She stated the permit fee was supposed to be allocated to public safety, and sales tax paid for public safety, so eliminating the fee while bringing in new sales tax revenue might balance out the funds.

Vice Mayor Gillespie indicated she liked this idea.

Council Member Ford stated she was not married to the permit fee but did like the concept of restricting fireworks to July 3rd and July 4th during set hours. She stated guidelines were important.

Vice Mayor Gillespie agreed guidelines were important.

Council Member Parks stated he always left Broken Arrow for July 4. He stated he and his family did not discharge fireworks but enjoyed watching fireworks displays. He stated his biggest complaint was having to clean up his neighbor's fireworks debris which was in his yard and on his roof when he returned home. He stated he had no opinion regarding the permit fee and would be in favor of whatever the Broken Arrow Fire Department and Police Department preferred. He agreed fireworks had not been available for purchase in the City of Broken Arrow in many years.

Vice Mayor Gillespie asked about the reason for the ban on the sale of fireworks in Broken Arrow.

City Manager Spurgeon stated he spoke with Farhad Daroga about this earlier, and he discovered fireworks were ever allowed to be sold in the City, but then a few properties with fireworks stands were annexed into the City from both Tulsa and Wagoner County, the fireworks stands were related to nonprofit organizations, and City Council at the time allowed the fireworks stands to continue to sell fireworks for a certain period of time. He noted within a few years all the firework stands stopped selling and the only fireworks sold were those being sold on tribal lands. He noted discussions were held in the past about allowing the sale of fireworks, but no action was taken by the City Council at that time.

Vice Mayor Gillespie stated she loved the idea of selling fireworks.

Council Member Parks stated many Broken Arrow residents were for the sale of fireworks, and many were against it, and this was why City Council made no decision one way or the other in the past.

City Manager Spurgeon stated the City collected around \$35,000 dollars in fireworks permit fees. He stated he recommended doing away with the fee. He stated the fee collected did go to public safety, but it was a small amount of money, and it would be a good gesture to do away with the fee. He stated the City received many calls from citizens who were upset about fireworks with complaints about the noise disturbing pets and people alike. He noted he never received phone calls from citizens saying, “don’t take away my ability to shoot fireworks.” He stated the City did need safety regulations or some type of permit out of respect for those who called with concerns about the fireworks, and there needed to be accountability. He agreed the fine for those discharging fireworks without a permit was significant and it could be changed to mirror state statute or something. He recommended retaining the permit requirement while perhaps eliminating the permit fee.

Vice Mayor Gillespie noted it was not usual to receive complaint calls from citizens who were upset.

City Manager Spurgeon agreed but noted the most emotional complaint calls he received were from those who were upset by fireworks.

Citizen Joshua Stenros stated regulation of fireworks was already in place through the noise ordinance and he did not believe a permit was needed. He stated eliminating the permit fee was excellent. He stated citizens were not going to call the city saying, “don’t take away my ability to shoot fireworks,” because it was not necessary. He noted while the citizens voted in favor of fireworks with a permit, this was in lieu of not being able to discharge fireworks. He stated if the permit fee were eliminated, the fines related to the permit should also be eliminated. He stated the permit had not done any good, had not saved lives or prevented fires, and the City had not been able to generate any income as a result of the permit through tickets or otherwise.

Council Member Ford stated the only thing which concerned her about eliminating the fee was the need to have fire marshals on duty during the holiday to regulate those discharging fireworks which were dangerously large.

City Manager Spurgeon stated the only citation he was aware of was for shooting fireworks outside of the allowed time period, and for shooting fireworks without a permit. He said if the Ordinance was still in place, and/or there was still a permit required, with or without a fee, the City would still enforce the law. He stated the enforcement would just be done with regular operational budget as opposed to using the fee collected from the permit.

Council Member Green asked if there was an Ordinance which indicated what type of fireworks could be discharged.

Vice Mayor Gillespie stated she believed it was a state law which indicated what type of fireworks could be discharged in Oklahoma. She noted there were certain fireworks which could be purchased in Missouri which could not be purchased in Broken Arrow.

Council Member Green noted it would be difficult to regulate the type of fireworks discharged.

Vice Mayor Gillespie noted residents still would not be able to set off fireworks outside of the indicated timeframe even if there were no permit required.

Mayor Wimpee agreed; the City had an Ordinance in place limiting when fireworks could be discharged.

Council Member Parks stated the good thing about the permit was it provided this information to the citizens regarding when fireworks were permitted to be discharged. He

stated if there were another way to educate the public regarding the fireworks ordinance then good, but the permit was a good way to ensure citizens had this information, as well as fireworks safety information.

Mayor Wimpee asked if fireworks safety information could simply be sent to the public.

Vice Mayor Gillespie asked if firework stands could also post fireworks safety information and Ordinance information. She stated she did not want to place a burden on a business.

Mayor Wimpee asked if sales tax was collected from tribal firework stands.

Council Member Ford stated she did not believe so.

City Manager Spurgeon stated he did not believe so.

Discussion ensued regarding selling fireworks in the City of Broken Arrow.

City Manager Spurgeon stated he could look into neighboring communities' ordinances regarding the sale of fireworks and come back to City Council with a recommendation.

Vice Mayor Gillespie stated she liked the idea of sending out fireworks safety protocols with the City utility bills, as well as posting this information on the City website and social media.

Council Member Ford noted the days and hours in which fireworks could be discharged should also be included.

Mayor Wimpee asked if the City Council was in favor of removing the fee altogether and/or removing the permit altogether.

Vice Mayor Gillespie stated she would prefer to remove the permit and fee.

Mayor Wimpee stated removing the fee might be a first step. She stated the City should do its due diligence and see what the permit was doing and what would need to be done to make up for it if it were eliminated.

Vice Mayor Gillespie stated she wondered whether retaining the permit without the fee would just be creating unnecessary work for the City.

Council Member Parks asked if the Police Chief or Fire Chief had any comments.

Neither the Police Chief nor the Fire Chief had any comment beyond "it's the will of the Council."

City Manager Spurgeon asked if City Council could vote to eliminate the fee as a part of this Agenda Item.

City Attorney Trevor Dennis explained the Agenda Item was asking for direction to be provided. He stated the Ordinance did not include a fee and City Manager had the authority to change the Manual of Fees and eliminate the fee. He stated if the City did eliminate the fee, it would need to decide whether to rebate any fees already paid for this upcoming July 4th or prorate the fee. He stated if City Council wished to eliminate the permit requirement it could simply repeal the Ordinance; however, the days and hours of allowed fireworks were included in the Ordinance. He stated City Council needed to direct Staff. He noted the Ordinance also caused the fines to double if an individual were setting off fireworks at say 3 a.m., and there was also a provision for cleaning up the fireworks debris. He stated these were difficult to enforce, but the regulations were still beneficial. He explained if the Ordinance were simply repealed there would be gaps in the firework regulations. He recommended City Council direct Community Development to coordinate with the Legal Department regarding the changes City Council wished to make.

Vice Mayor Gillespie asked if leaving debris could be considered littering.

City Attorney Dennis responded leaving fireworks debris was a higher fine than the simple littering fine, but he felt it could be called littering.

Council Member Parks noted the fireworks debris portion of the Ordinance could remain in place.

Discussion ensued regarding the difficulty in enforcing a fireworks debris violation.

Council Member Green asked if he could make a motion to direct Community Development and Legal to discuss the above and come back to City Council with a preview.

City Attorney Dennis recommended including removal of the fireworks permit fee as an Agenda Item for the next meeting.

Vice Mayor Gillespie asked if the City Manager could simply say there was no fee starting immediately.

City Manager Spurgeon noted if his authority to spend was \$27,000 dollars, and the fee collected for fireworks permits was \$35,000 dollars, this exceeded his authority, but the City would not collect over \$27,000 dollars between now and June 3rd, so he would issue a memo to suspend payment of all fireworks permit fees and City Council could confirm this at the June 3rd meeting.

Council Member Green said the issuance of fireworks permits could also be paused for two weeks.

City Attorney Dennis asked what should be done about those who had already paid the fireworks permit fee this year.

City Manager Spurgeon recommended refunding the fees.

MOTION: A motion was made by Justin Green, seconded by Johnnie Parks.

Move to direct Community Development and Legal to discuss the above and come back to City Council with a preview

The motion carried by the following vote:

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

10. Preview Ordinances

A. 24-558 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 12-1 Definitions; specifically amending employee title; Section 12-3 Right to engage in business of collecting, hauling, etc.; license, requiring the annual reporting of solid waste and recycling weights; Section 12-5 Inspection of collection vehicles, adding city discretion; Section 12-9 Curbside collection of recyclable materials; license required, etc. amending to allow flexibility of fees and deleting repetitive language; Article II Collection by City, Section 12-21 Duty to request and use service, updating language and removing exception; Section 12-22 Container specifications, updating to reflect current practices; Section 12-23 Location of containers and set out times, updating language and reflecting current practices; Section 12-24 Frequency of collections; rules and regulations, updating language; Section 12-25 Charges generally; minimum rate charge; monthly rates of residential customers, updating language and reflecting current practices and Section 12-26 Charges for improper disposal of hypodermic syringes, needles, and other such objects, deleting section for policy reasons. City Attorney Trevor Dennis reviewed some of the changes and updates to the Garbage and other refuse Ordinance. He stated City Staff changed the terms from Superintendent of Sanitation to Director of Solid Waste and Recycling; the requirement for private trash haulers to report total waste and recycling by August 20 every year was removed; the provision for the City to provide commercial service to all City-owned facilities was removed; the Ordinance was updated to reflect that trash and recycling materials were placed in carts; and yard waste was now required to be placed in clear plastic bags.

Vice Mayor Gillespie stated sometimes it was hard to find the clear bags in the City. She asked if yard waste could be put in brown paper bags.

Director of Solid Waste and Recycling Jerry Schuber explained if paper bags were used for yard waste it would be possible for residents to mix garbage with green waste, the green waste collectors would not be able to tell whether garbage was mixed in, and this would be problematic. He noted there were several stores in the City which carried clear plastic bags.

Vice Mayor Gillespie asked if Ordinance used to allow 20 bags of yard waste.

Mr. Schuber responded in the negative; it was always only 10 bags of yard waste. He noted the previous Director of Solid Waste said, "we collect it twice a week, so we might as well call it 20 bags" and this was where the confusion set in, but Ordinance always only allowed 10 bags. He stated he has been very lenient with this, but it was very difficult to build a route when you did not know how much waste would need to be picked up. He stated it would take time for the public to get used to the new rules, and he was being gentle about enforcement, but he was slowly revising how green waste was picked up.

Vice Mayor Gillespie asked if the rule had always been that trash should be put by the road the night before pickup.

Mr. Schuber responded in the negative; residents used to be allowed to put trash out by 7 a.m., but the City began pickup at 6 a.m. and was having to go back and pick up trash which was missed as a result. He explained the language in the code was recently changed to indicate it would be better to put trash out at night or before 6 a.m. He stated the Solid Waste Department explained to residents it was simpler to put trash out the night before, but otherwise it was required to be out before 6 a.m.

Council Member Ford asked if green waste should be placed next to the carts.

Mr. Schuber responded in the affirmative, but it should be placed up on the curb as opposed to in the street.

Council Member Parks asked if a separate truck was collecting green waste.

Mr. Schuber responded in the affirmative. He stated there were two green waste routes running every day doing about 9,900 stops per route daily from May to September. He explained this sped up the trash routes and was more efficient.

Vice Mayor Gillespie noted she wanted the residents to understand what was changing.

Mr. Schuber noted most of the changes to the Ordinance were simply language changes updating the Ordinance to reflect the new sanitation model.

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

Move to preview the Ordinance and set it for adoption

The motion carried by the following vote:

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

11. Ordinances

A. 24-665

Consideration, discussion, and possible adoption of Ordinance No. 3830, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ-2069, generally located one-eighth mile north of Kenosha Street (71st Street), one-quarter mile east of 65th Street (241st E. Avenue/Oneta Road), granting RS-3 zoning classification upon the tract, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency

Ms. Yamaguchi explained BAZ-2069 was approved in 2020; the plat for the property was filed at the end of last year. She asked for approval of the Ordinance to officially change the zoning map.

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

Move to adopt Ordinance No. 3830

The motion carried by the following vote:

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

B. 24-666

Consideration, discussion and possible approval of an emergency clause for Ordinance No. 3830

MOTION: A motion was made by Johnnie Parks, seconded by Justin Green.

Move for the emergency clause

The motion carried by the following vote:

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

12. Remarks and Inquiries by Governing Body Members

Mayor Wimpee stated this weekend was Memorial Day and Floral Haven would have its annual Memorial Day Ceremony starting at 10:00 a.m. and the Broken Arrow Youth On Guard would perform the Tomb of the Unknown Soldier reenactment which was amazing. She explained Youth On Guard would guard the tomb 24 hours a day starting at 1:00 p.m. on Saturday until 5:00 p.m. on Monday. She encouraged residents to visit and watch. She reported starting in June, City Council would be in summer attire.

Council Member Ford noted City Council Meetings would also be on Mondays as opposed to Tuesdays due to Tuesdays in the Park in June.

Council Member Green stated over the last couple of weeks there had been many excellent events including Rooster Days, Rooster Days Parade, Rooster Days Rodeo, Exceptional Rodeo, and OneBA which was successful.

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

City Manager Spurgeon indicated the first meeting of the Citizens Advisory Committee for the City Hall initiative was held last week and another would be next month. He stated the meeting was good and he looked forward to the next. He reported at the next meeting the

Visit BA Board would be presenting its new marketing initiative. He reported the Budget Workshop last week went very well, the public hearing for the FY 2025 Budget would be on June 3rd, and City Council would consider adoption of the FY 2025 Budget on June 17th. He stated COBAU had 60 applications this year (a record number of applicants) and 15 employees were selected. He stated employees were required to complete COBAU before they could be promoted into leadership in Broken Arrow. He stated this next COBAU class would kick off Thursday and City Council would have a meet and greet with this class in the next month or so.

At approximately 7:57 p.m. Mayor Wimpee noted there was an Executive Session and called for a recess for BAMA and BAEDA.

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

Move for a recess for BAMA and BAEDA

The motion carried by the following vote:

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

At approximately 8:03 p.m. City Council reconvened.

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

Move to clear the room for Executive Session

The motion carried by the following vote:

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

MOTION: A motion was made by Justin Green, seconded by Johnnie Parks.

Move to enter into Executive Session

The motion carried by the following vote:

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

14. Executive Session

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

1. Litigation, including potential resolution, of a matter involving of City of Broken Arrow v Contech Inc. et al, Tulsa County District Court Case Number CJ-2017-00295, and taking appropriate action in open session, including possible authorization to settle this tort claim, under 25 O.S. §307(B)(4).

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

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

Move to return to open session

The motion carried by the following vote:

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

15. Adjournment

The meeting was adjourned at approximately 8:05 p.m.

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

Move to adjourn

The motion carried by the following vote:

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

Mayor

City Clerk